

0608260K0798 MASTER DEED AND DECLARATION  
CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP

UNDER THE

HORIZONTAL PROPERTY LAW OF KENTUCKY, KRS 381.805-381.910

FOR

THE VILLAGE AT INDIAN FALLS,  
SINGLE-FAMILY HOMES IN A CONDOMINIUM COMMUNITY

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**DO 08 260PG0803MASTER DEED AND DECLARATION**

**THIS MASTER DEED AND DECLARATION OF THE VILLAGE AT INDIAN FALLS, SINGLE-FAMILY HOMES IN A CONDOMINIUM COMMUNITY ("Master Deed")** is made, entered into and effective as of the R941 day of September, 2003, pursuant to the provisions of the Kentucky Horizontal Property Law, KRS §§ 381.805-381.910.

**RECITALS:**

A. Dominion Homes of Kentucky, Ltd., a Kentucky limited partnership ("Declarant"), is the owner in fee simple of all of the real property hereinafter described as the "Condominium Property," and the improvements thereon and appurtenances thereto.

B. Declarant desires to create a community of individually-owned Units, and commonly-owned areas and facilities, and to these ends to submit the Condominium Property to condominium ownership under the Act.

**NOW, THEREFORE,** Declarant hereby makes and establishes the following plan for condominium ownership of the Condominium Property under and pursuant to the provisions of the Act, as follows:

**1. DEFINITIONS.**

**1.1 Act.** "Act" means the Kentucky Horizontal Property Law, Kentucky Revised Statutes §§ 381.805 to 381.910, as amended.

**1.2 Additional Property.** "Additional Property" means land and improvements thereon, that may, at a subsequent time, be added to the Condominium Property and become apart of the Condominium.

**.1.3 Articles of Incorporation.** "Articles" and "Articles of Incorporation" mean the articles, filed with the Secretary of State of Kentucky, incorporating The Village at Indian Falls Condominium Association, Inc. as a nonprofit corporation under the provisions of Chapter 273 of the Kentucky Revised Statutes; a copy of the Articles is attached hereto and made a part hereof, as Exhibit A

**1.4 Board of Directors.** "Board" and "Board of Directors" mean those persons who, as a group, serve as the board of directors of the Condominium Association.

**.1.5 Bylaws.** "Bylaws" mean the bylaws of the Condominium Association, created under and pursuant to the provisions of the Act for the Condominium; a true copy of the Bylaws is attached hereto and made a part hereof, as Exhibit B.

**1.6 Condominium.** "Condominium" and "The Village at Indian Falls, Single-Family Homes In A Condominium Community" mean. the condominium created hereby for the Condominium Property, created under and pursuant to the Act, and expansions thereof, when and if expanded.

**UB 08260PG 08041.7 Condominium Association.**

"Condominium Association" means the nonprofit corporation created by the filing of the Articles of Incorporation and is an association of all Unit Owners, at any time, in the development known and referred to herein as "The Village at Indian Falls," and means the "council of co-owners" as defined in Section 381.810(5) of the Act.

**1.8 Condominium Instruments.** "Condominium Instruments" means this Master Deed, the Bylaws, the Drawings, and, as provided by the Act, all other documents, contracts, or instruments establishing ownership of or exerting control over the Condominium or Unit.

**1.9 Condominium Organizational Documents.** "Condominium Organizational Documents" means the Articles, the Bylaws, the Drawings, and this Master Deed.

**1.10 Condominium Property.** "Condominium Property" means the tract of land hereinafter described as being submitted to the Act, all buildings, structures and improvements situated thereon (including, but not limited to, the water line mains serving such Condominium Property), and all easements, rights and appurtenances belonging thereto; the legal description of the Condominium Property is attached hereto and made a part hereof, as Exhibit C.

**1.11 Declarant.** "Declarant" means whomever is designated in the recitals of this Master Deed as creating the Condominium, and Declarant's successors and assigns, provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.

**1.12 Declaration.** "Declaration" means this Master Deed, by which the Condominium Property is hereby submitted to the provisions of the Act.

**1.13 Directors.** "Director" and "Directors" mean that person or those persons serving, at the time pertinent, as a Director or Directors of the Condominium Association, and mean that same person or those persons serving in the capacity of a member of the board of managers of the Condominium Association, as defined in the Act.

**1.14 Drawings.** "Drawings" means the drawings for each Unit in the Condominium, and are the Drawings required pursuant to the provisions of the Act.

**1.15 Eligible Mortgagees.** "Eligible Mortgagees" means the holders of valid first mortgages on Units who have given written notice to the Condominium Association, stating their names, addresses and Units subject to their mortgages.

**1.16 General Common Elements.** "General Common Elements" (and sometimes on the Drawings referred to as "Common Areas") means all of the Condominium Property, except that portion described in this Master Deed as constituting a Unit or Units, and except the Limited Common Elements.

OB 0 8 2 6 0 PG 8 0 **51.17 Limited Common Elements.** "Limited Common Elements" means those Common Elements serving exclusively one Unit or more than one but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful occupants of that Unit or Units either in this Master Deed, or by the Board, and is that portion of the Condominium Property constituting "limited common elements" of the Condominium under the Act.

**1.18 Occupant.** "Occupant" means a person lawfully residing in a Unit, regardless of whether or not that person is a Unit Owner.

**1.19 Person.** "Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

**1.20 The Village at Indian Falls.** "The Village at Indian Falls" means a development to consist of residential condominium units and green and landscaped areas, to be comprised of all or part of approximately 12.75 acres of land in Louisville, Jefferson County, Kentucky.

**1.21 Unit Owners.** "Unit Owner" and "Unit Owners" (or "Owner"/"Owners" of a Unit) mean that Person or those Persons owning a fee simple interest in a Unit or Units, each of whom is also a "co-owner" in the Condominium Association, as defined in Chapter 381 of the Act.

**L22 Units.** "Unit" and "Units" mean that portion or portions of the Condominium Property described as a Unit or Units in this Master Deed, and is that portion of the Condominium constituting a "Unit" or "Units" of the Condominium under the provisions of the Act.

1. **DEDICATION.** The Declarant hereby submits the Condominium Property to the condominium form of ownership and use in the manner provided by the Act.

1. **NAME.** The name by which the Condominium shall be known is "The Village at Indian Falls, single-family homes in a condominium community."

2. **PURPOSES; RESTRICTIONS.**

**4.1 Purposes.** This Master Deed is being made to establish separate individual parcels from the Condominium Property to which fee simple interests may be conveyed; to create restrictions, covenants and easements providing for, promoting, and preserving the values of Units and the *Common Elements* and the well *being* of Unit Owners and Occupants; and to establish an association of Unit Owners to administer the Condominium and the Condominium Property, to administer and enforce the covenants, easements, charges and restrictions hereinafter set forth, and to *raise funds* through assessments to accomplish these purposes.

**4.2 Restrictions.** The Condominium shall be benefitted by and subject to the following *restrictions*:

**(a) EB 08260PG0806Unit Uses.** Except as otherwise specifically provided in this Master Deed, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Notwithstanding the foregoing: (i) an occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit), making professional telephone calls or corresponding, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; (ii) it shall be permissible for the Declarant to maintain, during the period of its sale or rental of Units, one or more Units and/or portions of the Common Elements as sales and rental models and offices, and for storage and maintenance purposes; and (iii) one or more Units or a portion thereof and/or a portion of the Common Elements may be maintained for the use of the Condominium Association in fulfilling its responsibilities.

**(b) Common Element Uses.** The Common Elements (except the Limited Common Elements) shall be used in common by Unit Owners and Occupants and their agents, servants, customers, invitees and licensees, in accordance with the purposes for which they are intended, reasonably suited and capable, and as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of Units. Unless expressly provided otherwise herein, no Common Elements shall be used for any purpose other than the health, safety; welfare, convenience, comfort, recreation or enjoyment of Unit Owners and Occupants.

**(c) Limited Common Element Uses.** Those portions of the Common Elements described herein and shown on the Drawings as Limited Common Elements shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, as specified in this Master Deed, and shall be used only for the purposes intended.

**(d) Visible Areas.** Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except interior inoffensive drapes, curtains, or louvered blinds) or placed on the outside walls or doors of a Unit or otherwise outside of a Unit, or any part thereof, without the prior consent of the Board or unless authorized by rule or regulation adopted by the Board, and no awning, canopy, shutter or television or citizens' band or other radio antenna or transmitter other than a satellite TV dish of no more than 18" in diameter, or any other device or ornament, shall be affixed to or placed upon an exterior wall or roof or any part thereof, or the exterior of any door or window, or in, on, or over a patio, porch or balcony, visible to the exterior, unless authorized by the Board or



required by applicable law to be permitted, but, in such case, subject to such lawful rules and regulations as the Board may adopt from time to time.

**(a) *Offensive Activities.*** No noxious or offensive activity shall be carried on in any Unit, or upon the Common or Limited Common Elements, nor shall any Unit, Common Element or Limited Common Element be used in any way or for any purpose which may endanger the health of or unreasonably disturb any Occupant, provided that this paragraph shall not be construed

fl B 08260 PG 0807 so as to prohibit Declarant from construction activities consistent with reasonable residential construction practices.

**(f) Vehicles.**

(1) The Board may promulgate rules and regulations restricting or prohibiting the parking of automobiles, vans, buses, inoperable vehicles, trucks, trailers, boats and recreational vehicles on the Common Elements, including the Limited Common Elements, or parts thereof, and may enforce such regulations or restrictions by levying enforcement charges, having such vehicles towed away, or taking such other lawful actions as it, in its sole discretion, deems appropriate. Except as specified below, no trucks, no prohibited commercial vehicles, no boats, no trailers, no campers and no mobile homes shall be parked or stored on any Common Element or Limited Common Element (except in a garage or the parking space directly adjacent to the garage) for any time period longer than twelve (12) hours in any thirty (30) day period, and no overnight parking shall be permitted; provided, however, that nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of Units and Common Elements.

(1) For the purpose of this section, the terms "truck" and "prohibited commercial vehicle" shall include all vehicles that weigh, fully loaded, more than 6,000 pounds; all vehicles that have a length of more than 21 feet; and all vehicles that include any open exterior storage of tools or materials except no more than two (2) visible ladders. Dump trucks, tow trucks, flat bed car hauling trucks, panel trucks and "step vans" larger than one-ton capacity full size cargo vans, pickup trucks larger than one ton capacity pickup trucks, and semi type tractors and trailers shall all be considered in every instance to be a prohibited truck and/or a prohibited commercial vehicle. For the purpose of this section, the word "trailer" shall include landscaping trailer, open bed trailer, trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit use and occupancy thereof, or for storage or the conveyance of personal property, whether resting on wheels, jacks, tires or other foundation.

**(g) Renting and Leasing.** No Unit or part thereof shall be rented or used for transient or hotel purposes, which is defined as: (i) rental under which occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (ii) rental to roomers or boarders, that is, rental to one or more persons of a portion of a Unit only. No lease may be of less than an entire Unit. Any lease agreement shall be in writing, shall

provide that the lease shall be subject in all respects to the provisions hereof, and to the rules and regulations promulgated from time to time by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium Organizational Documents and lawful rules and regulations shall be a default under the lease. Prior to the commencement of the term of a lease, the Unit Owner shall notify the Board, in writing, as to the name or names of the tenant or tenants and the period during which the lease term shall be in effect. in addition, in order to assure that the Condominium, from time to time, meets the requirements of institutional first mortgagees and institutional and governmental agency guarantors and mortgage insurers necessary to qualify buyers and owners and/or the Condominium for owner-occupant residential financing, and to maintain the character of the

**DB 08260PG0808** Condominium as primarily a housing condominium for owner-occupants, the Board, from time to time, may adopt rules limiting or restricting the number of Units in the Condominium that may be rented, provided, that no such rule shall limit or restrict the right of (i) an institutional first mortgagee, insurer, or guarantor which takes title to a Unit by deed in lieu of foreclosure, or a purchaser at a foreclosure sale, or the immediate successor in title to the Unit of that institutional first mortgagee, insurer, guarantor or purchaser, to rent the Unit(s) so acquired, or (ii) Declarant, or Declarant's assignee who becomes a successor developer of the Condominium, to rent a Unit or Units owned by Declarant or such successor.

(a) **Signs.** No sign of any kind shall be displayed to the public view on the Condominium Property except: (i) on the Common Elements, signs regarding and regulating the use of the Common Elements, provided they are approved by the Board; (ii) on the interior side of the window of a Unit, one professionally prepared sign not in excess of six square feet in size, advertising the Unit for sale or rent; and (iii) on the Common Elements and model Units, signs advertising the sale and/or rental of Units by the Declarant during the period of its sale and rental of Units; provided, if these limitations on use of signs, or any part thereof, are determined to be unlawful, only the signs described in subitem (i) above shall be permitted after Declarant's period of sales and rental of Units.

(a) **Trash.** Except for the reasonably necessary activities of the Declarant during the development of the Condominium, or as approved by the Board, no burning or storage of trash shall be permitted on the Common Elements or Limited Common Elements except in designated pickup containers.

(b) **Replacements.** Any building erected to replace an existing Unit, including the detached garage constituting a part of the Unit, shall be of new construction, and be of comparable structure type, size, design and construction to that replaced.

(c) **Structural Integrity.** Nothing shall be done in any Unit, or in, on or to the Common or Limited Common Elements, which may impair the structural integrity of any improvement.

(I) **Construction in Easements.** No structure, planting or other material shall be placed or permitted to remain within the easements for the installation and maintenance of utilities and drainage facilities which may damage or interfere with the installation and maintenance of utility lines or which may change the direction of the flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easement areas. The utility facilities within the easement areas shall be subject to the right of the Condominium Association to maintain the same, and its right to delegate that right to a public authority or utility.

(m) **Animals.** Except as hereinafter provided, no animals,

livestock or poultry of any kind shall be raised, bred or kept in any Unit or on the Common Elements. Notwithstanding the foregoing, household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (i) the maintaining of animals shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the

**DB 08260PG0809**right to place limitations on the size, number and type of such pets, and the right to levy enforcement charges against persons who do not clean up after their pets; and (ii) the right of an Occupant to maintain an animal in a Unit shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium or other Units or Occupants.

**(a) Conveyances.** Each Unit shall be conveyed or transferred (voluntarily or involuntarily) as a separately designated and legally described freehold estate, subject to the terms, conditions and provisions hereof. The undivided interest of a Unit in the Common Elements shall be deemed to be conveyed or encumbered with the Unit even though that interest is not expressly mentioned or described in the deed, mortgage, or other instrument of conveyance or encumbrance. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred to the same transferee. In any instrument of conveyance or creating an encumbrance, or in any other document legally describing a Unit, it shall be sufficient to lawfully describe a Unit and its interest in the Common Elements by referring to the designation of the Unit and the appropriate recording references of the initial page of this Master Deed and the Drawings. The right of a Unit Owner to sell, transfer or otherwise convey that Owner's Unit is not subject to any right of first refusal, and any Unit Owner may transfer that Owner's Unit free of any such limitation. To enable the Condominium Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Condominium Association, in writing, within five days after an interest in that Unit Owner's Unit has been transferred to another person. In addition, each Unit Owner agrees to provide to a purchaser of that Owner's Unit a copy of the Condominium Organizational Documents and all effective rules and regulations.

**(a) Discrimination/Handicapped Accommodation.** No action shall at any time be taken by the Condominium Association, its Board, or any Unit Owner which in any manner would discriminate against any Unit Owner in favor of another. In addition, notwithstanding any provision hereof, or any rule or regulation, the Board shall make reasonable accommodation if necessary to afford a handicapped person equal opportunity to use and enjoy the Condominium Property, provided, that nothing contained herein shall be construed to mean or imply that any such accommodation be at the cost of the Condominium Association.

**(a) Architectural Control.** No building, wall, sign or other structure or improvement shall be commenced, erected or maintained upon the Condominium Property, or any part thereof, nor shall any exterior

addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Board or its designated representative or representatives, in its or their sole and unfettered discretion. Nothing visible to the exterior shall be permitted to be hung, placed, displayed or maintained in Limited Common Elements unless approved, in writing, by the Board or its designated representative or representatives, in its or their sole and unfettered discretion, or unless the same is authorized by existing rule or regulation adopted by the Board; provided, however, that a Unit Owner may install and maintain a satellite dish having a diameter of 18" or less on the exterior of the Unit. Clotheslines, wood decks, window air conditioning units on any window facing a private drive,

08260PG0810 and storage tanks for propane gas, fuel oil, or any other combustible substance, except propane gas grills, are specifically prohibited on the Common Elements and Limited Common Elements. Notwithstanding any repair or maintenance provision contained herein to the contrary, the Board may require, as a condition to approval, that the responsibility for repairing and maintaining the addition or improvement shall be the responsibility of the requesting Unit Owner and all future owners of the Unit.

*(q) Rules and Regulations.* In addition to adopting and enforcing rules and regulations in the instances specifically hereinbefore mentioned, the Board may, from time to time, adopt and enforce such further reasonable rules and regulations, also referred to as "community guidelines", as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit Owners, as a whole, and the Condominium Association, and to protect and preserve the nature of the Condominium and the Condominium Property. A copy of all rules and regulations shall be furnished by the Board to the owners of each Unit prior to the time when the same shall become effective.

**1. IMPROVEMENT DESCRIPTIONS.**

*5.1 Residential Buildings.* Declarant intends to initially construct a total of eighty-four (84) free-standing, single-family residential buildings, each with an attached two-car garage, as a part of the Condominium, which buildings will contain the Units. The residential buildings are either one story ranch style or two story townhouse style, built on slab on grade with poured concrete foundations, with wood



frames, asphalt shingle roofs, and vinyl siding exteriors. The residential buildings do not have basements. The principal materials of which these buildings are constructed are wood, glass, concrete, concrete block, vinyl, asphalt shingle, and drywall. The residential buildings are located as shown on the Drawings.

**5.2 Other.** The Condominium also includes private drives and driveways, exterior parking areas, exterior lighting, entry features, and green and landscaped areas.

## **2. THE UNITS AND THEIR APPURTENANCES.**

**6.1 Designations.** Each Unit shall consist of two parts; namely, the interior of a free standing, single-family dwelling, and the interior of an attached garage. Each Unit is legally designated by a number assigned by the Declarant for the Unit (the Unit's "Unit Designation"), as shown on the Drawings at the location of the dwelling and at the location of the garage which, together, comprise the Unit. The location and designation of each Unit is also shown on the Site Plan attached hereto as Exhibit D.

**6.2 Amendments to Declaration to Delineate Units.** This Declaration is being executed and recorded in the Jefferson County Clerk's office prior to the construction of the actual Units. Following the completion of construction of the various Units, Declarant will record various Amendments to this Declaration, a form of which is attached hereto as Exhibit E, for the purpose of placing of record a set of floor plans for each Unit and a verified statement of a

registered architect or professional engineer regarding each Unit, all as required by KRS 381.835, as described in Section 19.1 hereof.

### **6.3 Composition of Units.**

**(a) Composition.** Each Unit constitutes a single freehold estate, and because a Unit consists of two parts, i.e., the interior of a free-standing, single-family building, and the interior of the attached garage, it includes, without limiting the generality of the foregoing:

- (1) interior walls and partitions;
- (2) all space within these structures themselves, space occupied by interior walls, partitions, and any other improvements situated within the dimensions of the Unit;
- (3) all decorated surfaces of these structures and each interior and exterior part thereof, including paint, lacquer, varnish, wall covering, tile and other finishing material applied to floors, ceilings, and interior and perimeter walls, carpeting, if any, and also the floors and ceilings themselves, and the drywall, paneling and other finishing wall material;
- (4) all windows, skylights, if any, and screens and doors, including storm doors and windows, *if any*, and the frames, sashes and *jamb*s, and the hardware therefor;
- (5) all fixtures and appliances installed for the exclusive use of these structures, including, without limiting the generality hereof, built-in cabinets, dishwashers, garbage disposal units, refrigerators, stoves and hoods, television antennas and cables, furnaces, hot water heaters, heat pumps, air conditioning units, and components of the foregoing, if any;
- (6) all plumbing, electric, heating, cooling and other utility or service lines, pipes, wires, ducts, conduits and apparatus, wherever located, which serve only either of those structures;
- (1) all control knobs, switches, thermostats and electrical outlets and connections affixed to or projecting from the walls, floors and ceilings which service either of those structures or the fixtures located therein; and
- (7) fireplaces, if any, and all components thereof, including the stacks and chimneys.

**(h) Types, Sizes, Locations and Components.** The types of Units are described on the attached Exhibit F. The final, "as built" plans for each Unit will be placed of record, as described in Section 19.1 hereof. The location, dimensions, and composition of each Unit are also shown on the Drawings. Each Unit has direct access to a Common Element, which leads directly to a public street.



1. [1608260 PG 0812COMMON AND LIMITED COMMON ELEMENTS.

**7.1 Common Elements - Description.** All of the Condominium Property, including all of the land and all improvements thereon and appurtenances thereto, except those portions labeled or described herein or on the Drawings as a part of a Unit, are Common Elements.

**7.2 Limited Common Elements, Class I - Description.** Those portions of the Common Elements that are labeled or designated "Limited Common Elements" or "Limited Common Areas" on the Drawings, are Class I Limited Common Elements. The Class I Limited Common Elements appurtenant to each Unit consist of the green and landscaped areas surrounding the two portions of the Unit itself, and all improvements within those areas (except utility lines which serve other Units). Each such Class I Limited Common Element is reserved for the exclusive use of the Owners and Occupants of the Unit it is described, designed or designated to serve.

**7.3 Limited Common Elements, Class II - Description.** Those portions of the Common Elements consisting of the structures of each of the dwellings and the attached garages in which the Units are located, including, without limitation, the foundations, framing, roofs, siding, and all exterior walls and surfaces; the attic space or storage space above the structures, and the crawl space below them, if any, to which there is direct and exclusive access from the structure; all heat pumps and air conditioning units situated outside the bounds of the structures of each of the dwellings in which the Units are located; any front or side porch and/or patio that is attached to the dwelling; and any fence surrounding the area containing the Unit.

**7.4 Undivided Interest.** The undivided interest in the Common Elements of each Unit will be shown on the various Amendments to this Declaration as described in Section 6.2 above, and, in each case, is based on each Unit having an equal par value of one (1.00). Each Unit shall have the same percentage interest in the Common Elements. The percentage interest in the Common Elements for each Unit, expressed as a fractional formula, shall always have as its numerator the number 1, and the denominator thereof shall be the total number of Units. The percentage interest of each Unit's share of income and expenses shall be calculated in accordance with the preceding sentence. The Common Elements shall be owned by the Unit Owners as tenants in common, and ownership thereof shall remain undivided. No Unit Owner may waive or release any rights in the Common Elements. Further, the undivided interest in the,Comm on Elements of a Unit shall not be separated from the Unit to which it appertains.

## 2. CONDOMINIUM ASSOCIATION.

**8.1 Establishment of Condominium Association.** The Condominium Association has been formed to be and to serve as the Unit Owners' association of the Condominium. The Declarant is presently the sole member of the Condominium Association.

**8.2 Membership.** Membership in the Condominium Association shall be limited to the Unit Owners, and every person or entity who is or becomes a record owner of a fee or undivided fee simple interest in a Unit is a Unit Owner and shall be a member of the

08260PG0813 Condominium Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and a transfer of a Unit shall automatically transfer membership to the transferee.

*8.3 Voting Rights.* Voting rights of members are as set forth in the Bylaws.

*8.4 Board of Directors.* The number and composition, and the authority, rights and responsibilities, of the Board of Directors shall be as provided in the Bylaws.

*8.5 Purposes.* The purposes of the Condominium Association are to own, and/or have easements with respect to, repair, maintain *and* regulate the use of, various facilities and amenities in *The Village at Indian Falls*, that benefit all of *The Village at Indian Falls* and its Unit Owners and Occupants, including, without limiting, the generality of the foregoing, all or a portion of green and landscaped areas, private drives, a playground, walking trails, entryway features at the entranceway or entryways into *The Village at Indian Falls*, and such other amenities as serve all of *The Village at Indian Falls*.

*8.6 Audited Statements.* Within one hundred twenty (120) days following the close of each fiscal year, the books and records of the Condominium shall be audited. The audited statement shall be available for examination, during the course of normal business hours, by the Unit

Owners and the holder, insurer, or guarantor of any first mortgage that is secured by a Unit in the Condominium on submission of a written request for inspection to the custodian of the records.

8.7 *Documentation.* The Condominium Association shall maintain copies of the Condominium Instruments, and any and all rules, books and records, and financial statements pertaining to the Condominium Association on hand for inspection by Unit Owners, and also by any mortgagees, insurers, and guarantors of first mortgages on Units.

9. **AGENT FOR SERVICE.** The name of the person to receive service of process for the Condominium Association, the Condominium Association's "Statutory Agent," and that person's residence or place of business, which is in the Commonwealth of Kentucky, is:

Mr. Stephan M. George  
Dominion  
Homes of  
Kentucky, Ltd.  
10035 Forest  
Green Boulevard  
Louisville,  
Kentucky 40223

In the event this individual for any reason ceases to be registered with the Secretary of State of the Commonwealth of Kentucky as Statutory Agent for the Condominium Association, the person so registered shall be the person to receive service of process for the Condominium Association.

CI 8 2 6 PG 0 8 1 If **10. MAINTENANCE AND REPAIR.**

**10.1 Common Elements.** The Condominium Association, to the extent and at such times as the Board, in its exercise of business judgment, determines to allocate funds therefor, shall maintain, repair and replace all improvements constituting a part of the Common Elements (exclusive of Limited Common Elements), including, but not limited to, the entryway features, the private drives and alleys, general landscaping outside of Limited Common Elements, and utility *lines serving* more than one Unit. The Condominium Association shall maintain an adequate reserve fund for the periodic maintenance, repair and replacement of these improvements.

**10.2 Limited Common Elements.** Except as hereinafter provided and as provided in Section 10.4, the Condominium Association shall have no obligation to maintain, repair or replace, or bear the cost of maintaining, repairing or replacing, Limited Common Elements or components thereof; provided, that the Condominium Association shall, as a common expense, mow and fertilize grassy areas that are part of the Class I Limited Common Elements that are not enclosed or partially enclosed by walls, shrubs, and like barriers or that are determined by the Board, in its sole discretion, not to be performed at Condominium Association expense. Each Unit Owner shall repair and maintain all improvements which are a part of the Unit Owner's appurtenant Limited Common Elements and pay the cost thereof, specifically including, but not limited to, mulching, tree and shrub trimming, and their maintenance and replacement, flower bed maintenance, and the maintenance and repair of patios, porches and driveway and parking areas. In addition, each Unit Owner shall be solely responsible for the repair, upkeep and maintenance of all Class II Limited Common Elements appurtenant to a particular Unit.

**10.3 Units.** Because of the unique character of the Condominium, in that it contains free-standing individual single family residential buildings and garages, and thus only a single Unit per residential building and garage, the risk of loss as a result of damage or because of wear and tear to a Unit shall be the Unit Owner's, and, accordingly, the cost of maintaining, repairing and replacing of all portions of a Unit and the Class 11 Limited Common Elements appurtenant thereto shall be borne by the Owner or Owners of the Unit, provided that all exterior work shall be subject to and comply with the provisions of this Master Deed, as the same may from time to time be amended, and all rules and regulations duly adopted by the Board.

**10.4 Other.** Except as otherwise provided herein, the maintenance, repair and replacement of the Unit and its appurtenant Limited Common Elements shall be that of the Owner or Owners of that Unit, and the cost thereof shall be that of the Unit Owner or Owners. In the event a Unit



Owner shall fail to make a repair or perform maintenance required of that Unit Owner, or in the event the need for maintenance or repair of any part of the Common Elements is caused by the negligent or intentional act of any Unit Owner or Occupant, or is as a result of the failure of any Unit Owner or his, her or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, the Condominium Association may perform the same, and if the cost of such repair or maintenance is not covered by insurance, whether because of a deductible or otherwise, the cost thereof shall constitute a special individual Unit assessment, as hereinafter defined, on the Unit owned by that Unit Owner or Owners and on that Unit Owner or Owners. The determination that such maintenance or repair is necessary, or has been so caused, shall be made by the Board in its sole and unfettered discretion.

1. **08260PG0815** UTILITY SERVICES. Each Unit Owner by acceptance of a deed to a Unit agrees to pay for utility services separately metered or separately charged by the utility company to that Unit, and to reimburse the Condominium Association for that Owner's Unit's share of any utility cost that the Board reasonably determines is attributable solely to use by that Owner's Unit. All other utility costs shall be common expenses and paid by the Condominium Association.

1. INSURANCE; LOSSES.

### *12.1 Fire and Extended*

#### *Coverage Insurance.*

(a) *Unit.* The risk of loss of each Unit, the Limited Common Elements pertaining thereto, and all components thereof (except utility lines, if any, serving any other Unit or Units), is that of the Unit Owner or Owners. Accordingly, the Condominium Association shall have no obligation to maintain insurance thereon or improvements a part of appurtenant Limited Common Elements against loss or damage by fire, lightning, or such other perils *as* are ordinarily insured against by standard extended coverage endorsements. The Owner or Owners of each Unit shall obtain such insurance with respect to their Unit and improvements which are a Part of its appurtenant Limited Common Elements, provided the Condominium Association shall be named as an additional insured, and shall be provided evidence of the same. The fire and extended coverage insurance obtained and maintained by the Owner or Owners of each Unit shall be in amounts not less than one hundred percent (100%) of the current insurable replacement cost of the buildings, structures, fixtures and equipment constituting part of that Unit and all of the Class II Limited Common Elements appurtenant thereto (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage), and shall:

(1) have (a) an agreed amount and inflation guard endorsement, when that can be obtained, and (b) building ordinance or law endorsement, if any building, zoning, or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs, and, providing for contingent liability from the operation of building laws, demolition costs, and increased costs of construction;

(2) provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage;

(3) contain or have attached the standard mortgage

clause commonly accepted by institutional first mortgage holders, insurers, and guarantors, which must provide that the carrier shall notify the named insureds and each first mortgagee named in the mortgage clause at least ten days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy;

(4) have a deductible amount no greater than the lesser of ten thousand dollars or one percent of the policy face amount;

(1) include a guaranteed replacement cost or replacement cost endorsement; and

1,208260 PG 0816(6) meet such other requirements as may be required by national institutional first mortgage holders, insurers and guarantors.

If any Unit Owner fails to maintain such insurance, the Condominium Association may obtain the same and assess the same as a special individual Unit assessment. Notwithstanding the foregoing, the Unit Owners, if they desire to do so and the same is available, may join together and obtain such insurance, and share the costs thereof in proportion to the relative insurable values of their respective Units and improvements a part of their appurtenant Limited Common Elements.

**(b) Condominium Association.** The Board shall have the authority to and shall obtain such insurance for all buildings, structures, fixtures and equipment, and common personal property and supplies now or at any time hereafter constituting a part of the Common Elements (but not Limited Common Elements), or common property of the Condominium Association, to the extent the Condominium Association can obtain such blanket coverage, in amounts not less than one hundred percent (100%) of the current insurable replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage). This insurance shall also:

(1) have (a) an agreed amount and inflation guard endorsement, when that can be obtained, and (b) building ordinance or law endorsement, if any building, zoning, or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs, and providing for contingent liability from the operation of building laws, demolition costs, and increased costs of construction;

(2) provide that no assessment may be made against a first mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage;

(3) be written in the name of the Condominium Association;

(4) contain or have attached the standard mortgagee clause commonly accepted by institutional first mortgage holders, insurers, and guarantors, which (a) must provide that the carrier shall notify the named insured and each first mortgagee named in the mortgage clause at least ten days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy, and (b) must be endorsed to provide that any loss shall be paid to the Condominium Association;

(5) have a deductible amount no greater than the lesser of ten thousand dollars or one percent of the policy face amount;

(6) be paid for by the Condominium Association, as a common expense;

(1) contain a waiver of subrogation of rights by the carrier as to the Condominium Association, its officers and Directors, and all Unit Owners; and

(7) provide that the insurance shall not be prejudiced by any acts or omissions of individual Unit Owners who are not under the control of the Condominium Association.

**GB 08260PG081712.2 *LiabiliV Insurance.*** The Condominium Association shall obtain and maintain, at the Condominium Association's cost and as a common expense, a commercial policy of general liability insurance covering all of the Common Elements, Limited Common Elements, and public ways and any other areas under the Condominium Association's supervision, and Units, if any, owned by the Condominium Association, even if leased to others, insuring the Condominium Association, the Directors, and the Unit Owners and Occupants, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by institutional first mortgage holders, insurers, and guarantors for projects similar in construction, location and use, and (b) one million dollars, for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of the Condominium Association because of negligent acts of the Condominium Association, the Board, or a Unit Owner or Owners, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts in which the Condominium Association is a party. Each such policy must provide that it may not be canceled or substantially modified, by any party, without at least ten days' prior written notice to the Condominium Association and to each holder of a first mortgage on a Unit. The owner or owners of each Unit shall maintain such liability insurance with respect to their Unit as they may determine, recognizing that liability insurance carried by the Condominium Association will not insure against liability risk claims or losses arising with respect to a Unit.

**12.3 *Fidelit), Coverage.*** If available at a reasonable expense, and in any event from and after such time as Declarant no longer controls the Condominium Association, the Board shall obtain and maintain, at the Condominium Association's cost and as a common expense, fidelity insurance providing coverage for the Condominium Association against dishonest acts on the part of directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Condominium Association. The fidelity insurance policy must name the Condominium Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event less than the maximum amount that will be in the custody of the Condominium Association or its managing agent at any time while the policy is in force (which must be an amount equal to three (3) months' assessments on all Units in the Project). In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without

compensation shall be added if the policy would not otherwise cover volunteers. The policy shall provide that it shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Condominium Association, and any insurance trustee, and any servicer on behalf of any holder, guarantor or insurer of any mortgage on a Unit who requires such rights. Any management agent who handles funds of the Condominium Association shall maintain a policy of fidelity insurance providing coverage no less than that required of the Condominium Association, which insurance policy names the Condominium Association as an additional obligee.

**12.4 Hazard Insurance Carrier.** Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the Commonwealth of Kentucky which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's *Insurance Reports*, an "A" or better general

Hi18260PG<sup>0818</sup> policyholder's rating *and* a financial size category of "VIII" or better in Best's *Insurance Reports—International Edition*, an "A" or better rating in Demotech's *Hazard Insurance Financial Stability Ratings*, a "BBBq" qualified solvency ratio or a "**BBB**" or better claims-paying ability rating in Standard and Poor's *Insurer Solvency Review*, or a "BBB" or better claims-paying ability rating in Standard and Poor's *International Confidential Rating Service*. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

*12.5 Other Condominium Association Insurance.* In addition, the Board may purchase and maintain, at the Condominium Association's cost and as a common expense, contractual liability insurance, directors' and officers' liability insurance, and such other insurance as the Board may determine.

*12.6 Insurance Representative; Power of Attorney.* There may be named, under any policy obtained by the Condominium Association, as an insured on behalf of the Condominium Association, its authorized representative, including any trustee with whom the Condominium Association may enter into any insurance trust agreement, or any successor to such trustee, who shall have exclusive authority to negotiate losses under any such policy. Each Unit Owner, by acceptance of a deed to a Unit, irrevocably appoints the Condominium Association or such designated representative, or such successor, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Condominium Association, or such designated representative, or such successor, shall receive, hold or otherwise properly dispose of any proceeds of insurance, in trust, for Unit Owners and their first mortgage holders, as their interests may appear. This power is for the benefit of each and every Unit Owner, and their respective first mortgage holders, and the Condominium Association, and the Condominium, runs with the land, and is coupled with an interest.

*12.7 Unit Owners' Other Insurance.* Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Condominium Association or by the Unit Owner with respect to a Unit or appurtenant Limited Common Elements pursuant hereto as that Unit Owner or Occupant may determine, subject to the provisions hereof, and provided that no Unit Owner or Occupant may at any time purchase individual



policies of insurance against losses to the extent covered by the insurance carried pursuant hereto by the Condominium Association. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired or whose Occupant acquired such other insurance, who shall be liable to the Condominium Association to the extent of any diminution and/or loss of proceeds. All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Condominium Association, its officers and Directors, and all other Unit Owners and Occupants.

*12.8 Sufficient Insurance.* In the event the improvements forming a part of the Common Elements or any portion thereof shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or

**11B 08260PG0819** damage and payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then except as provided in Section 13 hereof, such repair, restoration or reconstruction shall be undertaken by the Condominium Association and the net insurance proceeds shall be used in payment therefor.

**12.9 Insufficient Insurance.** In the event the improvements forming a part of the Common Elements, or any portion thereof, shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the net insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, except as provided in Sections 13.2, the Condominium Association shall make repairs, restoration or reconstruction of the Common Elements so damaged or destroyed at the expense (to the extent not covered by insurance) of all Unit Owners in proportion to their respective undivided interests in the Common Elements. Should any Unit Owner refuse or fail after reasonable notice to pay that Unit Owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Condominium Association shall be assessed against the Unit of such Unit Owner and that assessment shall have the same force and effect, and, if not paid., may be enforced in the same manner as herein provided for the nonpayment of other assessments.

**12.10 Lender Requirements.** Notwithstanding the foregoing provisions of this Section 12, the Condominium Association may, if so determined by the Board, maintain hazard insurance, liability insurance, and fidelity insurance coverage conforming with the requirements then governing the making of a first mortgage loan, or the purchase, guaranty, or insurance of first mortgages, by national institutional lenders, guarantors or insurers of first mortgage. loans on condominium units.

**13. DAMAGE; RESTORATION; REHABILITATION AND RENEWAL;**

**TERMINATION. 13.1 Substantial Unit Damage or Destruction.**

**(a) Restoration.** In the event of substantial damage to or destruction of a Unit, the owner or owners of the Unit shall promptly restore or replace the same to a condition comparable to that which existed prior to such damage or destruction, at their sole expense, by contractors and subcontractors approved by the Condominium Association, unless an election is made not to do so, as provided in Section 13.1(b). The restoration or replacement of the Unit shall be completed within twelve (12) months following the substantial damage to, or destruction of, the Unit. In any event, within ninety (90) days of such substantial damage to or

destruction of a Unit, the Unit Owner shall take such actions as are necessary to restore the Unit so as not to be a nuisance, hazard or to detract from the value of the Condominium; provided, that if a Unit Owner fails to take such actions within ninety (90) days of such substantial damage to, or destruction of a Unit, the Condominium Association may perform the same and the cost thereof shall constitute a special individual Unit assessment against the Unit.

**(b) Non-Restored Unit.** In the event that the Owner or Owners of a Unit determine not to restore or replace the Unit to a condition comparable to that which existed prior to the substantial damage or destruction, they shall at their sole cost and expense forthwith cause the remnants of the damaged or destroyed Unit to be removed, the site of the Unit cleared, filled, and graded to the grade of the surrounding land area, or, if they fail to do so, the Condominium

68260PG0820 Association may do the same and the cost thereof shall be a charge upon the owner or owners of such Unit. Failure of the Owner or Owners of the Unit substantially damaged or destroyed to repair such damage or replace such destroyed Unit within a twelve (12) month period following such substantial damage or destruction shall be conclusively deemed to be an election not to restore or replace the damaged or destroyed Unit. Upon the earlier of (i) the election of the Owner or Owners of a Unit not to restore or replace the Unit after substantial damage or destruction, or (ii) the passage of twelve (12) months following such substantial damage or destruction without the Unit Owner or Owners having restored or replaced the substantially damaged or destroyed Unit, and with the consent of the holder of the first mortgage lien on the Unit, the Owner or Owners of the Unit substantially damaged or destroyed shall be immediately and automatically divested of any interest in the Condominium, the Condominium Property, and the Condominium Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Condominium Association, and liability for future common expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative proportions as those rights and interests were prior to such substantial damage or destruction. In such event, the Limited Common Elements appurtenant to such Unit shall become Common Elements.

**13.2 Common Elements Damage or Destruction.** In the event of damage or destruction of the Common Elements or any part thereof (but not the Limited Common Elements), the Condominium Association shall restore or replace the same, and the cost thereof shall be a common expense, unless all Unit Owners, and with the consent of eligible mortgages hereinafter provided, elect within sixty (60) days after such damage or destruction, not to restore or replace the same, and to terminate the Condominium. In any such an event, all of the Condominium Property shall be sold as upon partition. In the event of such an election not to repair or restore such substantial damage or destruction or reconstruct such destroyed improvements, the net proceeds of insurance paid by reason of such damage or destruction, or the net amount of any award or proceeds of settlement arising from such proceedings, together with the proceeds received from the sale as upon partition, or in the case of an election otherwise to terminate the Condominium, the net proceeds from the partition sale, shall be distributed among the owners of the Units, and the holders of their respective first mortgage liens, (as their interests may appear), in the proportions of their undivided interests in the Common Elements.

#### **14. CONDEMNATION.**

**14.1 Standing.** Except as hereinafter provided, the Condominium Association, or its designated representative, or authorized successor, as trustee, shall represent the Unit Owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of all or any part of the Condominium Property, and shall have the sole and exclusive right to settle losses with the condemning authority and to receive the award or proceeds of settlement, for the use and benefit of the Unit Owners and their mortgagees as their interests may appear. Notwithstanding the foregoing, in the event that a Unit Owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit Owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of favorable mortgage terms, and other such individual incidental or consequential losses, that Unit Owner may, at his, her, its or their election, separately pursue such claim, provided, that the pursuing of the same, or the realization of an

**BB 08260PG082** Award thereof, neither jeopardizes, in any way, an action by the Condominium Association to recoup the losses incurred by it, or any other Unit Owner, or the direct loss with respect to the Unit itself, or with regard to the usability thereof, nor diminishes any award for any such loss.

**14.2 Use of Proceeds.** The award or proceeds of settlement in any actual or threatened condemnation or eminent domain proceedings, after reduction by the costs, if any, incurred in obtaining the same, shall be applied to the cost of restoring or replacing all damaged or taken improvements on the remaining Condominium Property in accordance with the Drawings, or in accordance with any new plans and specifications therefor approved by Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners, and the consent of eligible mortgagees hereinafter provided, and in the case of a Unit being taken, the Owner or Owners of that Unit and all holders of mortgages on the Unit.

**14.3 insufficient Proceeds.** In the case of awards or proceeds properly allocable to the taking of Common Elements, if the award or proceeds are insufficient to restore or replace the damaged or taken improvements or other Common Elements, the excess cost shall be paid by the Condominium Association and, to the extent funds of the Condominium Association are insufficient therefor, in the judgment of the Board, such excess cost shall be a common expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed. Except as hereinafter provided, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and disbursed to the Unit Owners, and their first mortgagees, as their interests may appear, in proportion to the relative undivided interests of the Units in the Common Elements. In the case of awards or proceeds properly allocable to the taking of a Unit, or any part thereof, if the award or proceeds are insufficient to restore or replace the damaged or taken Unit, the Owner or Owners of the Unit so taken or damaged shall pay the deficiency, subject to the provisions of Section 14.4 hereof.

**14.4 Non-Restorable Unit.** Notwithstanding the foregoing, in the event that as a result of any such taking, and consequent restoration or replacement, any Unit could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced, prior to the allocation and disbursement of any sum to any other Unit Owner or his, her or its mortgagee, there shall be allocated and disbursed from such award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced, and his, her or its respective first mortgagee, as their interests may appear, such amount as is equal to the lesser of the net proceeds available and the then fair market value of the Unit that cannot be so restored or replaced. Thereupon, such Unit or Units, and the owners thereof, shall be immediately and automatically divested of any interest in the Condominium, the

Condominium Property, and the Condominium Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, membership in the Condominium Association, and liability for future common expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be equally allocated among all other Units, since each Unit prior thereto had an equal vote, and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative undivided interests prior to such taking.

**11B 08260 FG 082214.5 Power of Attorney.** Each Unit Owner, by acceptance of a deed to a Unit, appoints the Condominium Association, or its designated representative, as his, her or its attorney-in-fact to represent that Unit Owner, settle losses, receive and utilize the award or proceeds of settlement, and do all things necessary or desirable for such attorney-in-fact to exercise the rights and fulfill the responsibilities of the Condominium Association set forth in this Section 14 with respect to condemnation or eminent domain proceedings. This power is for the benefit of each and every Unit Owner, each holder of a first mortgage on a Unit, the Condominium Association, and the real estate to which it is applicable, runs with land, is coupled with an interest, and is irrevocable.

**15. GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS.**

**15.1 Easements of Enjoyment; Limitations.** Every Unit Owner shall have a right and easement of enjoyment in, over and upon the Common Elements and an unrestricted right of access to and from his, her or its Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Elements and the Limited Common Elements, provided that no such rule or regulation shall limit or prohibit the right of ingress and egress to a Unit, or any part thereof, to that Unit's parking facilities, or to that Unit's appurtenant Limited Common Elements, or to the use thereof. Each Unit Owner shall be deemed to have delegated that Unit Owner's right of enjoyment to the Common Elements and to ingress and egress to the occupants of that Owner's Unit.

**15.2 Right of Entry for Repair, Maintenance and Restoration.** The Condominium Association shall have a right of entry and access to, over, upon and through all of the Condominium Property, including each Unit and the Limited Common Elements, to enable the Condominium Association to perform its obligations, rights and duties pursuant hereto with regard to maintenance, repair, and restoration of any items, things or areas of or in the Condominium Property. In the event of an emergency, the Condominium Association's right of entry to a Unit may be exercised without notice; otherwise, the Condominium Association shall give the Owners or Occupants of a Unit no less than twenty-four hours advance notice prior to entering a Unit. In addition, each Unit Owner shall have a right of entry and access to, over, upon and through the Limited Common Element yard areas of each contiguous Unit, for the sole purpose of enabling the Unit Owner to perform obligations, rights, and duties pursuant hereto with regard to maintenance, repair, and restoration of the Unit Owner's Unit or its appurtenant Limited Common Elements. In the event of an emergency, the Unit Owner's right of entry to adjacent Limited Common Elements may be exercised without notice; otherwise, the Unit Owner shall give the Owners or Occupants of the adjacent Unit no less than twenty-four hours advance notice prior to entering the adjacent Unit Owner's Limited Common Elements.



***15.3 Easements for Encroachments.*** Each Unit and the Common Elements and Limited Common Elements shall be subject to and benefitted by easements for encroachments on or by any other Unit or property of the Condominium Association and upon the Common Elements and Limited Common Elements created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements; or by reason of errors on the Drawings. Valid easements for these encroachments and for the maintenance of same, as long as the physical boundaries of the Units after the construction, reconstruction, repairs, etc. will be in substantial accord with the description

JR 08260 PG 0823 of those boundaries that appears herein or on the Drawings, shall and do exist so long as the encroachments remain.

**114 Easement for Support.** Every portion of a building or utility line or any improvement on any portion of the Condominium Property contributing to the support of another building, utility line or improvement on another portion of the Condominium Property shall be burdened with an easement of support for the benefit of all other such buildings, utility lines, improvements and other portions of the Condominium Property.

**15.5 Easements for Proper Operations.** Easements to the Condominium Association shall exist upon, over and under all of the Condominium Property for ingress to and egress from, and the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to, water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television, and the road system and all walkways, and for all other purposes necessary for the proper operation of the Condominium Property. By these easements it shall be expressly permissible for the Condominium Association to grant to the appropriate public authorities and/or the providing companies and contractors permission to construct and maintain the necessary appurtenances and improvements on, above, across and under the Condominium Property, so long as such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Condominium Property. Should any public authority or other company furnishing a service request a specific easement, permit, or license, the Board shall have the right to grant such easement, permit, or license without conflicting with the terms hereof. In addition, in the event the Board determines that the grant of easement rights to others is in the best interests of the Condominium Association, the Condominium Association shall have the right to grant the same, provided that use of the same would not, in the sole judgment of the Board, unreasonably interfere with the use and enjoyment of the Condominium Property by Owners and Occupants.

**15.6 Easement for Services.** Non-exclusive easements are hereby granted to all police, firemen, ambulance operators, mailmen, delivery men, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities and the Condominium Association, but not to the public in general, to enter upon the Common Elements in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish, from time to time.

**15.7 Easements Reserved to Declarant.**

(a) Non-exclusive easements are hereby reserved to Declarant, its successors and assigns, over and upon the Common Elements and Limited Common Elements, (a) for access to and for the purpose of

completing improvements for which provision is made in this Master Deed, provided that such right of access shall be to the extent, but only to the extent, that access thereto is not otherwise reasonably available, (b) for the periods provided for warranties hereunder or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit purchasers, and (c) for the initial sales and rental period, to maintain and utilize one or more Units and/or portions of the Common Elements and appurtenances thereto, for sales and management offices and for storage and maintenance, and model *Units*, parking *areas* for sales and rental purposes, *and advertising signs*.

11B082613PG 08 2**(b)** In addition, a non-exclusive perpetual easement is hereby reserved to Declarant, its successors and assigns, for their benefit and the benefit of future Owners and Occupants of the area into which the Condominium may be expanded (the Additional Property) for pedestrian and vehicular access over the streets and walkways that may from time to time be a part of the Condominium Property, for ingress to and egress from the Additional Property, and each part thereof, and a public street, and to extend the same onto the Additional Property. The Condominium Association, at all times, shall maintain an unimpeded route of vehicular and pedestrian ingress and egress over and upon the Condominium Property to and from the Additional Property and a public street. Additionally, Declarant, for itself and its successors and assigns, reserves the right so long as it or its successors control the Condominium Property or the Condominium Association, to extend utility lines from the Common Elements onto the Additional Property, and thereafter to service and maintain the same.

(c) The rights and easements reserved to Declarant, its successors and assigns, pursuant to this section, shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Condominium Association and the rights of Owners and Occupants of Units.

*15.8 General.* Unless specifically limited herein otherwise, the easements described herein shall run with the land and pass with the title to the benefitted properties, shall be appurtenant to the properties benefitted thereby, shall be enforceable by the owners of the properties benefitted thereby, and shall be perpetual. The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this Master Deed in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements but the same shall be deemed conveyed or encumbered, as the case may be, along with the Unit.

*15.9 Power of Attorney.* Each Unit Owner, by acceptance of a deed to a Unit, appoints the Condominium Association or its designated representative, as his, her or its attorney-in-fact, to execute, deliver, acknowledge and record, for and in the name of such Unit Owner, such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of the Board, or its authorized representative, to further establish or effectuate the foregoing easements and rights. This power is for the benefit of each and every Unit Owner, the Condominium Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

**16. ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS.**

*16.1 Types of Assessments.* The Declarant for each Unit within the Condominium hereby covenants and agrees, and each Unit Owner by acceptance of a deed to a Unit (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay to the Condominium Association: (a) operating assessments, (b) special assessments for capital improvements, and (c) special individual unit assessments, all of such assessments to be established and collected as hereinafter provided.

**BB 08260PG 082516.2 Purpose of Assessments.** The assessments levied by the Condominium Association shall be used exclusively to promote and provide for the health, safety and welfare of Unit Owners and Occupants and the best interests of the Condominium Property.

**16.3 Elements-**

***Apportionment; Due***

***Dates. (a) Operating***

***Assessments.***

(I) Prior to the time any Unit Owner is to be charged assessments by the Condominium Association, and in any event within sixty (60) days after the first closing of the sale of a Unit by Declarant, the Board shall establish for the remainder of the Condominium Association's fiscal year, and prior to the beginning of each fiscal year of the Condominium Association thereafter, the Board shall estimate for the next fiscal year, and, in each case, prorate among all Units and their owners on the basis of the undivided interest of each Unit in the Common Elements, common expenses of the Condominium Association, consisting of the following:

(A) that period's estimated cost of the maintenance, repair, and other services to be provided by the Condominium Association;

(A) that period's estimated costs for insurance premiums to be provided and paid for by the Condominium Association;

(B) that period's estimated costs for utility services not separately metered or charged to Unit Owners;

(C) the estimated amount required to be collected to maintain a working capital reserve fund, to assure availability of funds for normal operations of the Condominium Association, in an amount deemed adequate by the Board, but in no event less than an amount equal to two months' currently estimated assessments on all Units;

(D) an amount deemed adequate by the Board to maintain a reserve for the cost of all deductibles under insurance policies, the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and

(B) that period's estimated costs for the operation, management and administration of the Condominium Association, including, but not limited to, fees for property management, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Condominium Association, and the salaries,

wages, payroll charges and other costs to perform these services, and any other costs constituting common expenses not otherwise herein specifically excluded.

(2) The Board shall thereupon allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Elements, and thereby establish the operating assessment for each separate Unit. For

FIB 08260PG082<sup>5</sup>administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.

(1) The operating assessment shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments in annual, semiannual, or quarterly increments. The due dates of any such installments shall be established by the Board, or, if it fails to do so, an equal monthly pro rata share of the annual operating assessment for a Unit shall be due the first day of each month.

(1) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units on the same basis as heretofore set forth; provided, that if common expenses are incurred by the Condominium Association prior to the time the Condominium Association commences to levy assessments against Units, Declarant shall pay the same (subject to its right, if any, to reimbursement from Unit purchasers contained in individual contracts for the sale of a Unit or Units).

(2) If assessments collected during any such period are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves, or as reductions in future assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available, except on dissolution of the Condominium Association, for distribution to Unit Owners.

(3) So long as the Declarant is in control of the Condominium Association, Declarant shall not use any part of the working capital reserve fund to defray Declarant's expenses, reserve contributions or construction costs, or to make up any budget deficits, and shall maintain the working capital reserve fund in a segregated account and transfer the same to the Condominium Association for deposit to a segregated account at or prior to the time Unit Owners other than Declarant control the Condominium Association. Each Unit's share of the working capital reserve fund shall be collected either at the time the sale of the Unit is closed or when control of the Condominium Association is vested in Unit Owners other than Declarant, whichever is earlier, without prejudice to Declarant's right to recover its contribution from purchasers of Units from Declarant subsequent to such vesting of control.

*(b) Special Assessments for Capital Improvements.*

(1) In addition to the operating assessments, the Board may levy, at any time, special assessments to construct, reconstruct or replace capital improvements on the Common Elements to the extent that reserves therefor are insufficient, including a special reserve fund to be used only for maintenance, repair and replacement of the private roads included within the Common Areas, provided that new capital improvements not replacing existing improvements (except new capital improvements required to comply



with applicable law or governmental regulation, or to correct any deficiency or defect creating a safety or health hazard to occupants) shall not be constructed nor funds assessed therefor, if the cost thereof in any fiscal year would exceed an amount equal to five percent (5%) or more of that fiscal year's budget, without the prior consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners and the consent of eligible mortgagees hereinafter provided.

cig 0 8 2 6 0 PG 0 8 Z-1(2) Any such assessment shall be prorated among all Units in proportion to their respective undivided interests in the Common Elements, and shall become due and payable on such date or dates as the Board determines following written notice to the Unit Owners.

*(a) Special Individual Unit Assessments.* The Board (1) shall levy assessments against an individual Unit, or Units, and the owner or owners thereof, to reimburse the Condominium Association for those costs incurred in connection with that Unit or Units properly chargeable by the terms hereof to a particular Unit (such as, but not limited to, the cost of making repairs or obtaining insurance the responsibility of a Unit Owner, and a Unit Owner's interest, late charges, enforcement, and arbitration charges), and (ii) may, if its Board so determines from time to time, and so agrees with authorized representatives of the Condominium Association, levy such assessments for obligations with respect to any individual Unit or its owner or owners for charges made with respect thereto by the Condominium Association pursuant to the provisions of its governing documents. Any such assessment shall become due and payable on such date as the Board determines, and gives written notice to the Unit Owners subject thereto. Additionally, during the first years of the Condominium's existence, and until such time as real estate taxes and assessments are split into separate tax bills for each Unit, the Condominium Association shall have the right to pay the real estate taxes and assessments attributable to the Condominium Property in the event the same have not been paid, when due, and assess each Unit Owner for his, her or its share of such real estate taxes and assessments as a special individual Unit assessment. The share of those taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the undivided interest in Common Elements attributable to that Unit. The calculation by the Condominium Association of the Units' shares of taxes and assessments shall be binding upon all Unit Owners.

*16.4 Effective Date of Assessment.* Any assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Board to the Unit Owner subject thereto at least ten (10) days prior to the due date thereof, or if to be paid in installments, the due date of the first installment thereof. Written notice mailed or delivered to a Unit Owner's Unit shall constitute notice to that Unit Owner, unless the Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address shall constitute notice to that Unit Owner.

*16.5 Effect of Nonpayment of Assessment; Remedies of the Condominium Association.*

(a) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the entire unpaid balance of the assessment shall immediately become due and

payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installments.

(b) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the Board, at its option, and without demand or notice, may (i) charge interest on the entire unpaid balance (including the accelerated portion thereof) at such rate as the Board, from time to time, establishes by rule; or if the Board fails to establish a rate by rule, at the rate of eight percent (8%) per annum, (ii) charge a reasonable,

DB 08260PG0828 uniform, late fee, as established from time to time by the Board, by rule, and (iii) charge the cost of collection, including attorney fees and other out-of-pocket expenses.

**(O)** Operating and both types of special assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge in favor of the Condominium Association upon the Unit against which each such assessment is made.

(a) At any time after any assessment or any installment of an assessment, or any portion of any installment of an assessment levied pursuant hereto remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that assessment, including all future installments thereof, interest, late fees, and costs, including attorney fees, may be filed with the Jefferson County Clerk, pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessments and charges, and shall be signed by the president or other chief officer of the Condominium Association.

(b) The lien provided for herein shall become effective from the time a certificate of lien or renewal certificate was duly filed therefor, and shall continue for a period of five (5) years unless sooner released or satisfied in the same manner provided by law in the Commonwealth of Kentucky for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(a) Any Unit Owner who believes that an assessment chargeable to his, her or its Unit (for which a certificate of lien has been filed by the Condominium Association) has been improperly charged against that Unit, may bring an action in the District Court of Jefferson County for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

(a) Each such assessment together with interest, late fees, and costs, including attorney fees, shall also be the joint and several personal obligation of the Unit Owners who owned the Unit at the time when the assessment fell due. The obligation for delinquent assessments, interest, late charges and costs shall not be the personal obligation of that owner or owners' successors in title unless expressly assumed by the successors, or required by applicable law, provided, however, that the right of the Condominium Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent assessments, interest, late charges and costs, shall not be impaired or abridged by reason of the transfer, but shall continue unaffected thereby, except as provided in Section 16.6.

(b) The Condominium Association, as authorized by the

Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees, and costs, including attorney fees, bring or join in an action at law against the owner or owners personally obligated to pay the same, and an action to foreclose a lien, or any one or more of these. In any foreclosure action, the owner or owners affected shall be required to pay a reasonable rental for that Unit during the pendency of such action. The Condominium Association in any foreclosure action involving a Unit or Units shall be entitled to become a purchaser at the foreclosure sale. In any

O 08260 PG 0829 such foreclosure action, interest and costs of such action (including attorneys' fees) shall be added to the amount of any such assessment, to the extent permitted by Kentucky law.

(O No claim of the Condominium Association for assessments and charges shall be subject to setoffs, off sets, or counterclaims.

(i) No owner may waive or otherwise escape liability for the assessments provided for in this Master Deed by non-use of the Common Elements, or any part thereof, or by abandonment of his, her or its Unit.

(k) Assessments shall run with the land, are necessary to continue the care, repair and maintenance of Units and their undivided interests in the Condominium Property, and to continue to provide utility and security service, and, accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankrupt estate.

**16.6 Subordination of the Lien to First Mortgages.** The lien of the assessments and charges provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Unit recorded prior to the date on which such lien of the Condominium Association arises, and any holder of such first mortgage which comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid installments of assessments and charges against the mortgaged Unit which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor owner. The foregoing will not relieve any successor owner from the obligation for assessments accruing thereafter.

**16.7 Certificate Regarding Assessments.** The Board shall, upon demand, for a reasonable charge, furnish a certificate signed by the president, treasurer, secretary or other designated representative of the Condominium Association, setting forth whether the assessments on a specified Unit have been paid. This certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

## **17. EXPANSIONS.**

**17.1 Reservation of Expansion Option.** Declarant expressly reserves the option to expand the Condominium Property, but only within the limitations, and subject to the terms, set forth in this Section 17.

**17.2 Limitations on Option.** Declarant has no limitations on its option to expand the Condominium Property except as provided in this Section 17, or elsewhere in this Master Deed, and except as otherwise so expressly limited,

has the sole right, power, and authority to expand the Condominium Property.

***17.3 Legal Descriptions; Drawings.*** Legal descriptions, by metes and bounds, including a reference to the source of title deed pursuant to which Declarant acquired title to the Additional Property, of all of the land that, through exercise of Declarant's option, may be added

ilEi 08260PG0830 to the Condominium Property by submission to the Act as part of this Condominium, and, together with any improvements placed thereon and added hereto, is referred to herein as the "Additional Property." Drawings for such Additional Property shall also be attached.

**17.4 Composition of Portions Added.** Neither all nor any portion of the Additional Property must be added to the Condominium Property, nor, if any of the Additional Property is added, shall it be required that a particular portion of the Additional Property must be added, provided that portions added meet all other requirements set forth in this Section 17 and, provided, further, that all improvements in the Additional Property added to the Condominium Property shall be substantially completed prior to the addition. There are no limitations fixing the boundaries of portions added, or regulating the order in which portions are added.

**17.5 Time for Adding Portions.** Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, within the time limits previously described.

**17.6 Improvement Location Limitations.** There are no established or defined limitations as to the location of any improvements that may be made on any portion of the Additional Property added to the Condominium Property except such limitations as may then be in effect by reason of the laws and lawful rules and regulations of the appropriate governmental bodies and authorities having jurisdiction.

**17.7 Non-Residential Uses.** No Units may be created on the Additional Property or portions thereof and added to the Condominium Property that are not restricted exclusively to residential use.

**17.8 Compatibility of Structures.** All structures erected on all or any portion of the Additional Property and added to the Condominium Property will be consistent and compatible with structures then on the Condominium Property in terms of quality of construction, the principal materials to be used, and architectural style, and design. Comparable style and design shall be deemed to exist if the exterior appearance of the structures on the Additional Property is compatible and harmonious with those then on the Condominium Property. Design shall not be deemed to be incompatible or not comparable because of variances in setbacks or locations of structures in relation to other improvements, or changes in size, design or finish detail.

**17.9 Improvements Other than Structures.** If all or a portion of the Additional Property is added to the Condominium Property, drives, sidewalks, yard areas, and other improvements similar to those then on the Condominium Property shall be constructed on that Additional



Property, and no other non-structural improvements. Improvements other than structures added to the Condominium Property shall not include improvements except of substantially the same kind, style, design, and quality as those improvements then on the Condominium Property.

***17.10 Limited Common Elements.*** Declarant reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property to create Limited Common Elements therein of substantially the same type and size as those areas now so designated as such. The precise size and number of such newly created Limited Common

[1808260PG0631] Elements cannot be ascertained precisely, because those facts will depend on how large each portion added may be, the size and location of the buildings and other improvements on each portion, and other factors presently undetermined.

**.17.11 Procedures for Expansion.** All or any portion of the Additional Property shall be added to the Condominium Property by the execution and filing for record by the Declarant, or its successor as owner of the portion added and as assignee of the right to expand the Condominium, in the manner provided by the Act, of an amendment to the Master Deed that contains the information and drawings with respect to the Additional Property and improvements thereon added required by the Act.

**17.12 Effects of Expansion.** Except as hereinafter specifically provided otherwise, upon the recording with the Jefferson County Clerk's office of an amendment to the Master Deed adding all or any portion of the Additional Property to the Condominium Property:

(a) The added portion shall thereafter be subject to and benefitted by all of the terms and provisions hereof, to the same extent and with the same effect as if that added portion had been provided herein as constituting part of the Condominium Property, that is, the rights, easements, covenants, restrictions, and assessment plan set forth herein shall run with, bind, and benefit the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Master Deed apply to the Condominium Property, provided, that non exclusive easements are reserved to Declarant, its successors and assigns, over and upon the Common Elements and Limited Common Elements in property added to the Condominium (1) for a one year period of time from the date of the closing by Declarant of the first sale of a Unit in that property added to a bona fide purchaser, for access to and for the purpose of completing improvements in that portion added, (ii) for the periods provided for warranties, or by law, for purposes *of making repairs* required pursuant to warranties, and (iii) for the initial sales and rental period for Units in that property added, to maintain and utilize one or more of those Units and/or portions of the Common Elements and appurtenances thereto, for sales and management offices and for storage and maintenance, and model Units, parking areas for sales and rental purposes, and advertising signs.

(a) The Owner or Owners of a Unit or Units in the added portion shall thereupon become members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other members, including, without limiting the generality of the

foregoing, one vote for each Unit owned by that owner or owners.

(e) The undivided interests of Units in the Common Elements, as so expanded, shall be reallocated on the basis of each Unit, including those added, having an equal par value of one (1.00) and, thus, resulting in each Unit, including those added, having an equal undivided interest.

**(d)** With respect to Units added, operating assessments shall commence the later of (i) the first day of the calendar month next following the date the documents adding the Units were duly recorded or (ii) the date established by the Condominium Association for the commencement of *any* operating assessment, and shall be prorated based on the number of full calendar months remaining in the year for which the operating assessments were levied.

260826 Ong 832(e) In all other respects, all of the provisions of this Master Deed shall include and apply to such additional portions, and to the owners, mortgagees, and lessees thereof, with equal meaning and of like force and effect.

(I) The Owner or Owners of a Unit or Units in the added portion shall thereupon become members of the Condominium Association, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other members of the Condominium Association.

### **18. NOTICES TO AND VOTING RIGHTS OF LENDING INSTITUTIONS.**

**18.1 Notices.** Any eligible mortgagee, upon written request to the Condominium Association (which request states the name and address of such eligible mortgagee and the Unit designation), shall be entitled to timely written notice by the Condominium Association of:

(a) any proposed addition to, change in, or amendment of the Condominium organizational documents of a material nature, including any addition to, change in, or amendment of any provision establishing, providing for, governing, or regulating: (i) voting rights; (ii) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or priority of such liens; (iii) reductions in reserves for maintenance, repair, and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements (including the Limited Common Elements), or rights to their use; (vi) redefinition of boundaries of any Unit; (vii) convertibility of Units into Common Elements or vice versa; (viii) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium; (ix) hazard or fidelity insurance requirements; (x) imposition of any restrictions on the leasing of Units,

(i) imposition of any restrictions on a Unit Owner's right to sell or transfer that Owner's Unit;

(ii) if the Condominium consists of fifty (50) or more Units, a decision by the Condominium Association to establish self-management if professional management had been required previously by the Condominium instruments or by an eligible mortgagee; (xiii) restoration or repair of the Condominium Property after damage or partial condemnation in a manner other than specified in the Condominium instruments; (xiv) termination of the legal status of the Condominium after substantial destruction or condemnation occurs; or (xv) expressly benefitting mortgage holders, insurers, or guarantors. No addition to, change in, or amendment of the Condominium organizational documents shall be considered material if it is for the purpose of correcting technical errors, or for clarification only.

**(b)** any proposed decision or action that: (i) terminates professional management and establishes self-management when professional management has been required previously by an eligible mortgagee; (ii) causes restoration or repair of the Condominium Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium organizational documents; (iii) substantial damage or destruction not be restored; (iv) the Condominium Property be renewed or rehabilitated; (v) significant new capital improvements not replacing existing improvements be constructed; or (vi) would, without addition to, change in, or amendment of the Condominium organizational documents, make any change with respect to the items described in subparagraph (a) of this Section 18.1.

06 08260 PG 0833(e) (i) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage; (ii) any delinquency for sixty (60) days in the payment of assessments or charges owed by the owner of any Unit on which it holds the mortgage; (iii) any lapse, cancellation, or material modification of any insurance policy maintained by the Condominium Association; and (iv) any proposed action that requires the consent of a specified percentage of eligible mortgagees. A holder, insurer or guarantor of a first mortgage lien on a Unit which has sent a written request to the Condominium Association stating both its name and address and the Unit designation or address of the Unit on which it holds, insures or guarantees the mortgage shall be entitled to timely written notices of the events described in this Section 18.1.

**18.2 Voting Rights.** No action with respect to which eligible mortgagees are entitled to notice, as provided in subparagraphs (a) or (b) of Section 18.1, may be taken without the consent of eligible mortgagees of Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by eligible mortgagees appertain, provided, further, that no action to terminate the Condominium or that would have that effect other than by reason of substantial destruction or condemnation of the Condominium Property, shall be taken without the consent of eligible mortgagees of Units to which at least seventy-five percent (75%) of the votes of Units subject to mortgages held by eligible mortgagees appertain.

**18.3 Approval Rights.** Notwithstanding any other provision hereof, if a federal or other nationally broad-based institutional mortgagee, guarantor, or insurer of residential home loans:

(a) holds, insurers, or guarantees payment of all or part of a mortgage secured loan on one or more Units in the Condominium;

(b) has not theretofore approved a plan of expansion of the Condominium to which a proposed addition to the Condominium conforms; and

(a) requires approval of proposed additions to the Condominium,

neither the Additional Property nor any part thereof may be added to the Condominium without the prior written consent of such holder, insurer, or guarantor.

## 19. AMENDMENTS.

**19.1 Amendments for Creation of Individual Units.** The Village at Indian Falls shall be developed incrementally, and additional Units may be created, added and subjected to this condominium regime by various

Amendments to this Declaration, together with the filing of plans for each such Unit as required by KRS 381.835. Declarant specifically reserves the right, from time to time, until all of the Units as shown on the Site Plan have been constructed, to amend this Declaration for the purpose of adding additional Units in the manner set forth above.

In furtherance of the foregoing, an irrevocable power of attorney coupled with an interest is hereby granted and reserved unto Declarant, its successors and assigns, to amend this Declaration and to shift and reallocate from time to time the percentage of ownership in the

Da 08260 PG0834 Common Elements appurtenant to each Unit. Each execution of a deed, mortgage, or other instrument with respect to a Unit and the acceptance thereof shall be deemed a grant, acknowledgment and conclusive evidence of the parties thereto to the consent of such reservation of power to Declarant, its successors or assigns, as attorney in fact, and shall be deemed to reserve to Declarant and its successors and assigns the power to shift and reallocate from time to time the percentages of ownership in the Common Elements appurtenant to each Unit, as set forth in each such recorded Amendment to this Declaration. Each Unit Owner, by acceptance of a deed to a Unit, agrees for himself and all those claiming thereunder, including mortgagees, that any changes in the respective percentages of ownership in the Common Elements as set forth in each Amendment hereto shall be deemed to be made by agreement of all Unit Owners.

*19.2 Power to Amend.* Except as otherwise specifically provided herein, after the construction of all of the Units and following Declarant's recording of Amendments as described in Section 19.1 above, additions to, changes in, or amendment of this Master Deed (or the other Condominium Organizational Documents) or the taking of any of the actions which require the consent of eligible mortgagees exercising fifty-one percent (51%) of the votes of Units subject to mortgages held by eligible mortgagees, as provided elsewhere herein, shall, in addition to such consents of eligible mortgagees, require the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners. Notwithstanding the foregoing:

**(a)** the consent of Unit Owners exercising not less than one hundred percent (100%) of the voting power of Unit Owners shall be required for any amendment effecting a change in:

(1) the boundaries of any Unit;  
(2) the undivided interest in the Common Elements appertaining to a Unit or the liability for common expenses appertaining thereto;

(1) the number of votes in the Condominium Association appertaining to any Unit; or  
(3) the fundamental purposes to which any Unit or the Common Elements are restricted;

**(b)** in any event, Declarant reserves the right and power, and each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled



with an interest and runs with the title to a Unit and is irrevocable (except by Declarant), for so long as Declarant owns any Unit, to amend the Condominium organizational documents, to the extent necessary to (i) conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender or an institutional guarantor or insurer of a mortgage on a Unit, provided that the appropriate percentage (as described elsewhere herein) of eligible mortgagees is obtained (if required), or (ii) correct typographical or factual or obvious errors or omissions the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor, provided, further, that if there is a Unit Owner other than the Declarant, the

§808260 PG0835 Master Deed shall not be amended to increase the scope or the period of control of the Declarant; and

(c) in any event, there is reserved to the Condominium Association, through its Board, from and after such time as Declarant no longer owns any Unit, the right and power, and each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to the Condominium Association, through its Board, a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by the Board), to amend the Condominium organizational documents to the extent necessary to correct typographical or factual errors or omissions the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor.

An eligible mortgagee of a Unit who receives a written request to approve changes, additions, or amendments sent by certified or registered mail, return receipt requested, and who does not deliver or post to the requesting party a negative response within thirty (30) days after receipt of the same, shall be deemed to have approved such request.

**19.3 Method to Amend.** After the construction of all of the Units and following Declarant's recording of Amendments as described in Section 19.1 above, amendments to this Master Deed (or the Drawings or the Bylaws), adopted with the consents of Unit Owners and eligible mortgagees hereinbefore required, shall be executed with the same formalities as to execution as this Master Deed by two officers of the Condominium Association and shall contain their certification that such amendment was duly adopted in accordance with the foregoing provisions. Any amendment adopted by the Declarant or a duly empowered successor Declarant pursuant to authority granted it pursuant to the Master Deed shall be duly executed by it with the same formalities as to execution as this Master Deed and shall contain the certification of such signor or signors that such amendment is made pursuant to authority vested in Declarant or any duly empowered successor Declarant by the Master Deed. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Jefferson County Clerk's office.

## 20. GENERAL PROVISIONS.

**20.1 Covenants Running With the Land.** The covenants, conditions, restrictions, easements, reservations, liens and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any

right, title or interest in or to all or any part of the Condominium Property, and the Condominium Association, and their respective heirs, executors, administrators, successors and assigns.

**20.2 Actions.** In addition to any other remedies provided in this Master Deed, Declarant, (only with respect to those rights directly benefitting the Declarant), the Condominium Association, and each Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges set forth herein or in the Bylaws or now or hereafter imposed by or through the Condominium Association's rules and regulations. Failure by Declarant, the Condominium Association or by any Unit Owner to proceed with such enforcement shall in no event be deemed a waiver of the right

tia 08260 PG 0836 to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such restriction, condition, covenant, reservation, easement, lien or charge. Further, the Condominium Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium organizational documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted thereunder, provided, the Condominium Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration, and provided, further, that neither the Condominium Association nor its directors, officers, or other representatives, shall be liable to any Unit Owner or Occupant, or their invitees, for damage to any Unit or any part thereof, or any personal property of such Unit Owner, Occupant or invitee, or for injury to such person, unless the damage or injury was proximately caused by the gross negligence or the intentional tortious act of the Condominium Association or such director, officer or other representative. In addition to all other remedies available by law, the Condominium Association may use summary abatement or similar means to enforce any provisions hereof or restrictions against the Unit or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

**20.3 Severability.** Invalidation of any one or more of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect. In the event any language of this Master Deed conflicts with mandatory provisions of the Act, the latter's requirements shall prevail and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall in no wise affect any other provisions of this Master Deed, which provisions shall remain in full force and effect.

**20.4 Gender and Grammar.** The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, men or women, shall in all cases be assumed as though in such case fully expressed.

**20.5 Captions.** The captions of the various provisions of this Master Deed are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof

**IN WITNESS WHEREOF,** the Declarant has executed this Master Deed

as of the date first written above.

116 08260PG 0837COMMONWEALTH OF KENTUCKY

SS:

COUNTY OF JEFFERSON

This instrument was acknowledged before me by Stephan M. George, President of Dominion Homes of Kentucky GP, LLC, a Kentucky limited liability company, and the general partner of Dominion Homes of Kentucky, Ltd., a Kentucky limited partnership, the Declarant, on this day of September, 2003.

My Commission expires: 1, N·Q C \- \ , QC51 .

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DB 08260n083<sup>8</sup>ARTICLES OF INCORPORATION

OF

THE VILLAGE AT INDIAN FALLS CONDOMINIUM ASSOCIATION,  
INC.

The undersigned hereby incorporates a nonprofit corporation ("Corporation") without capital stock or stockholders, under the provisions of KRS 273.161 *et seq.*, and for that purpose adopts the following Articles of Incorporation.

## ARTICLE I

Name of Corporation

The name of the Corporation is "The Village at Indian Falls Condominium Association,  
Inc."

## ARTICLE II

Purposes and Powers

(1) Any provision of these Articles of Incorporation to the contrary notwithstanding, the Corporation shall not have any purpose or object, nor have or exercise any power, nor engage in any activity, which in any way contravenes, or is in conflict with, the other provisions of ARTICLE II of these Articles of Incorporation.

(2) The objects and purposes of the Corporation, and the powers it shall have and may exercise, are as follows:

(a) To establish a "Council of co-owners" as that term is defined in KRS 381.810(5).

(b) To manage, maintain and care for the condominium property located on Fege.nbush Lane in Louisville, Kentucky, in such manner that no part of its net income or property inures to the benefit of any private person, except as reasonable compensation for services actually rendered.

(c) To do any and all things which the Corporation's Board of Directors may determine, consistent with the provisions hereof, to be necessary or appropriate to effectuate the purposes for which the Corporation is organized as herein set forth, to the extent that the doing of such act or thing is not inconsistent with the provisions of Chapter 273 or

Chapter 381 of Kentucky Revised Statutes, or any other applicable law or statute of the Commonwealth of Kentucky.



**EB 08260PG083<sup>9</sup>ARTICLE III**

**Duration**

The Corporation shall have perpetual duration.

**ARTICLE IV**

**Members**

The Corporation shall have one class of members with such qualifications and rights as shall be set forth in the Bylaws of the Corporation, subject to and in accordance with Article IL

**ARTICLE V**

**Board of Directors**

(1) All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation managed under the direction of, its Board of Directors.

(2) The Board of Directors shall consist of such number of individuals as may be fixed in the Bylaws of the Corporation ("Bylaws"); provided, however, that the Board of Directors shall not consist of fewer than three individuals.

(1) A director may be removed as provided

in the  
Bylaws.

**ARTI**

**CLE**

**VI**

**Initial Board of Directors**

The number of directors constituting the initial Board of Directors is 3, and the name and mailing address of each person who is to serve as an initial director is as follows, each person to serve until the first annual meeting of the Board of Directors and until such director's successor in office is elected and shall qualify:

<u>NAME</u>	<u>ADDRESS</u>
Terry E. George	5501 Frantz Road, Dublin, OH 43017-7502
Rich Hearth	10035 Forest Green Boulevard, Louisville, Kentucky

40223

Stephan M. George

10035 Forest Green Boulevard, Louisville, Kentucky  
40223

BB 0 8260 PG 08<sup>140</sup>NAME ADDRESS

## ARTICLE VII

### Registered Office; Registered Agent

The street address of the initial registered office of the Corporation is 10035 Forest Green Boulevard, Louisville, Kentucky 40223, and the name of its initial registered agent at such office is Stephan M. George.

## ARTICLE VIII

### Principal Office

The mailing address of the principal office of the Corporation is 10035 Forest Green Boulevard, Louisville, Kentucky 40223.

## ARTICLE IX

### Incorporator

Tandy C. Patrick, whose mailing address is 3500 National City Tower, 101 South Fifth Street, Louisville, Kentucky 40202, is the sole incorporator of the Corporation.

## ARTICLE X

### Indemnification of Directors and Officers

(1) To the fullest extent permitted by, and in accordance with the provisions of;

Kentucky law, as the same exists or may hereafter be amended, but only to the extent not in conflict with the provisions of Article II, the Corporation shall indemnify each director and officer of the Corporation against expenses (including, but not limited to, attorney's fees), judgments, taxes, penalties, fines (including, but not limited to, any excise tax assessed with respect to any employee benefit plan) and amounts paid in settlement (collectively, a "Liability"), incurred by such director or officer in connection with defending any threatened, pending or completed action, suit or proceeding (whether civil, criminal, administrative or investigative) to which such director or officer is, or is threatened to be made, a party because such director or officer is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a member, director, officer, partner, trustee or agent of another domestic or foreign corporation,

partnership, limited liability company, joint venture, trust or other enterprise, including, but not limited to, service with respect to benefits plans. A director or officer of the Corporation shall be considered to be serving an employee benefit plan at the Corporation's request if the duties of such

**N08260PG0841** director or officer to the Corporation also impose duties on, or otherwise involve services by, such director or officer to the plan or to participants in or beneficiaries of the plan.

(1) To the fullest extent authorized or permitted by, and in accordance with the provisions of, Kentucky law, as the same exists or may hereafter be amended, but only to the extent not in conflict with the provisions of Article II, the Corporation shall pay or reimburse expenses (including, but not limited to, attorney's fees) incurred by a director or officer of the Corporation who is a party to a proceeding in advance of final disposition of such proceeding.

(2) The indemnification against Liability and advancement of expenses provided by, or granted pursuant to, this Article X shall, to the fullest extent authorized or permitted by, and in accordance with the provisions of, Kentucky law, as the same exists or may hereafter be amended, but only to the extent not in conflict with the provisions of Article II, not be deemed exclusive of other rights, if any, to which such director or officer of the Corporation seeking such indemnification or advancement may be entitled under the Bylaws or any agreement, action of disinterested directors or otherwise, both as to action in their official capacity and as to action in another capacity while holding such office of the Corporation, shall continue as to a person who has ceased to be a director or officer of the Corporation, and shall inure to the benefit of the heirs, executors and administrators of such a person.

(3) Any repeal or modification of this Article X shall not adversely affect any right or protection of a director or officer of the Corporation under this Article X with respect to any act or omission occurring prior to the time of such repeal or modification.

## **ARTICLE XI**

### **Elimination of Certain Liability of Directors**

A director of the Corporation shall not be personally liable to the Corporation for monetary damages for breach of such director's duties as a director; provided, however, that this provision shall not eliminate or limit the liability of a director for the following: (i) for any transaction in which such director's personal financial interest is in conflict with the financial interests of the Corporation, (ii) for acts or omissions not in good faith or

which involve intentional misconduct or are known to such director to be a violation of law or (iii) for any transaction from which such director derived an improper personal benefit. This Article XI shall continue to be applicable with respect to any such breach of duties by a director of the Corporation as a director notwithstanding that such director may thereafter cease to be a director and shall inure to the personal benefit of such director's heirs, executors and administrators.

## **ARTICLE MI**

### **Private Property of Incorporator and Directors**

None of the private property of the incorporator or any director of the Corporation shall be subject to any of the Corporation's debts and liabilities.

08260 PG 0842ARTICLE XIII

Severability of Provisions

Except as may conflict with the provisions of Article II, if any provision of these Articles of Incorporation, or its application to any person or circumstances, shall be held invalid by a court of competent jurisdiction, the invalidity shall not affect any other provisions or applications of these Articles of Incorporation that can be given effect without the invalid provision or application, and to this end the provisions of these Articles of Incorporation are severable.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this the 29<sup>th</sup> day of September, 2003.

---

TANDY C. PATRICK,  
Incorporator

CONSENT OF REGISTERED AGENT

The undersigned, having been named in the Articles of Incorporation as the registered agent of the Corporation, hereby consents to serve in that capacity.

Stephan M. George

This instrument was prepared by:

Tandy C. Patrick  
GREENEBAUM  
DOLL &  
MCDONALD PLLC  
3500 National City  
Tower  
101 South Fifth Street  
Louisville, Kentucky 40202

(502) 589-4200



Og 08260 PC 08143

BYLAWS

OF

THE VILLAGE AT INDIAN FALLS  
CONDOMINIUM ASSOCIATION, INC.

September 29, 2003

**EXHIBIT 3**

*GD&M 761655.5  
September 24, 2003*

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01106260FG0<sup>8</sup>k<sup>6</sup>BYLAWS

OF

**THE VILLAGE AT INDIAN FALLS CONDOMINIUM  
ASSOCIATION, INC.**

**1. GENERAL.**

*1.1 Description and Name.* These are the Bylaws of The Village at Indian Falls Condominium Association, a Kentucky nonprofit corporation ("Association"), which is to be composed of each owner of a Unit in The Village at Indian Falls Condominium, single-family homes in a Condominium Community Project ("Condominium"), as created by a Master Deed (the "Master Deed") dated September 29, 2003, made by Dominion Homes of Kentucky, Ltd. (the "Declarant"), recorded in Deed Book , Page in the Office of the Clerk of Jefferson County, Kentucky. Certain capitalized terms used herein without definition shall have the meaning ascribed to them in the Master Deed.

*1.2 Purposes of Association.* The Association, acting in accordance with the Master Deed, the Articles of Incorporation of the Association ("Articles"), and these Bylaws, and through its officers, and through the Board of Directors of the Association ("Board"), shall govern the affairs of the Condominium and. provide for the harmonious use thereof.

*1.3 Office.* The office of the Association and of the Board shall be located initially at 10035 Forest Green Boulevard, Louisville, Kentucky 40223, and thereafter

at such other office as the Board may determine from time to time.

*1.4 Registered Office.* The Association shall maintain a registered office in the Commonwealth of Kentucky as required by Kentucky law. The address of the registered office may be changed from time to time by the Board.

*1.5 Members' Qualifications.* Each owner of record of any Unit, and only such owner of record, shall be a member of the Association ("Member"). Any person or entity, on becoming a record owner of a Unit, shall automatically become a Member and be subject to these Bylaws, and such membership shall terminate without any formal action by the Association when such person or entity ceases to be a record owner of a Unit, but such termination shall not relieve or release such former owner from any liability or obligation incurred or arising during the period of such membership or impair any rights and remedies which the Association or others may have against such former Unit owner arising out of or connected with such former Unit owner's membership in the Association.

*1.6 No Capital Shares.* The Association shall have no capital shares or shareholders, and its business and affairs shall not be conducted for private pecuniary gain or profit, nor shall any of the Association's gain, profit or property inure to the incorporators thereof, nor officer or

08260PG0847 director, but the Association's entire gain, profit, net earnings and property shall be devoted exclusively to the purposes set out in Article II of the Articles.

## **2. MEMBERS.**

*2.1 Annual Meetings.* Regular annual meetings of Members shall be held in the second calendar quarter of each year hereafter, at such time and date as shall be specified by the Board. At such meetings, the Board shall be elected in accordance with the provisions of these Bylaws. The Members may transact such other business at such meetings as may properly come before them.

*2.2 Place of Meetings.* Meetings of the Members shall be held at the principal office of the Association as set forth in Section 1.3, or at such other place reasonably convenient to the Members as may be designated by the Board.

*2.3 Special Meetings.* The President of the Association ("President") shall call a special meeting of the Members if so directed by resolution of the Board or upon a petition signed and presented to the "Secretary" (as hereinafter defined) by Members entitled to exercise one-fourth (1/4) or more of the voting power of Unit owners, or as otherwise required under these Bylaws or the Master Deed. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

*2.4 Notice of Meetings.* The Secretary or the President, or Vice President of the Association ("Vice President"), shall mail to each Member a notice of each annual meeting and of each special meeting of the Members, at least five (5) but not more than thirty (30) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held. Any Member may waive notice of any and all meetings in writing before or after a meeting, and such waiver shall be deemed equivalent to the giving of notice. A Member's attendance at a meeting without objection to such Member's not having received proper notice of the meeting shall be deemed a waiver of the right to receive notice of that meeting.

*2.5 Quorum; Adjournment.* The Members present, in person or by proxy, at any duly called and noticed meeting of Members, shall constitute a quorum for such meeting. Members entitled to exercise a majority of the voting power of Members represented at a meeting may, at any time, adjourn such meeting. If any meeting is so adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

*2.6 Voting Rights.* Each Member shall be entitled to one vote for each Unit owned in fee simple, and, in the case of a Unit owned by more than one person, a proportionate part of a vote for ownership of an undivided fee simple interest in that Unit, provided, that unless timely challenged by an owner of a fee simple interest in a Unit, any owner of a fee simple interest in that Unit may cast the entire vote with respect to that Unit. The Board, from time to time, may suspend the right of a member

to vote with respect to his, her, or its Unit for failure to pay



0608260PG0848 assessments when due, or for failure to observe other of the terms hereof, the Master Deed, or rules and regulations of the Association, pursuant to rules and regulations duly adopted by the Board from time to time.

**2.7 Voting Power.** A majority of the voting power of Members voting on any matter that may be determined by the Members at a duly called and noticed meeting shall be sufficient to determine that matter. The rules of Roberts' Rules of Order shall apply to the conduct of all meetings of Members except as otherwise specifically provided in the Condominium Organizational Documents or by law.

**2.2 Proxies.** At any meeting of Members, a Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary prior to the meeting. A telegram or cablegram appearing to have been transmitted by a Member, or a photographic, photostatic, or equivalent reproduction of a writing, appointing a proxy, is a sufficient writing. Every proxy shall be revocable and shall automatically cease upon conveyance by a Member of his, her or its Unit, and, in any event, shall not be valid after the expiration of eleven months after it is made unless it specifies the date on which it is to expire or the length of time it is to continue in force.

**2.9 Action in Writing Without Meeting.** Any action that could be taken by Members at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of Members or their proxies having not less than seventy-five percent (75%) of the voting power of Members, or such greater proportion of the voting power as may be required by the Condominium Organizational Documents or by law.

### 3. BOARD OF DIRECTORS

**3.1 Directors.** The initial directors shall be those three persons named as the initial Directors in the Articles, or such other person or persons as may from time to time be substituted by the Declarant. Thereafter, at annual meetings, successors to the Directors whose terms then expire shall be elected to serve three-year terms. Notwithstanding the foregoing, the Members, by the vote of Members exercising not less than a majority of the voting power of Members, may, from time to time, change the number and terms of Directors, provided, that in any such event the terms of not less than one-third of the Directors shall expire annually. Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one or more Directors or to vote in an election of Directors.

**3.2 Removal.** Excepting only Directors named in the Articles or

selected by Declarant, any Director may be removed from the Board with or without cause, by the holders of not less than seventy-five percent (75%) of the voting power of Members. In the event of the death, resignation or removal of a Director other than one named in the Articles or a substitute selected by the Declarant, that Director's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of Members, when a Director shall be elected to complete the term of such deceased, resigned or removed Director. In the event of removal of all Directors, the Members shall, at the meeting at which all Directors are removed, elect Directors to complete the terms of the removed Directors. Declarant shall have the sole right to remove,

**BB 08260PG08**<sup>49</sup>with or without cause, any Director designated in the Articles, or a substitute selected by the Declarant, and select the successor of any Director so selected who dies, resigns, is removed or leaves office for any reason before the election of Directors by all of the Members as provided in the Master Deed.

*3.3 Qualification.* To qualify for nomination, election or appointment as a Director (other than by Declarant), the prospect must be an individual who is a Member or a designated officer of an entity that is a Member, and such Member must not then be delinquent in the payment of any obligation to the Association, or then be an adverse party to the Association, or its Board or any member thereof (in that member's capacity as a Board member) in any litigation involving one or more of those parties.

*3.4 Nomination.* Nominations for the election of Directors to be elected by the Members shall be made by a nominating committee appointed by the Board, or, if the Board fails to appoint a nominating committee, by the Board itself. Nominations may also be made from the floor at the meetings. The nominating committee, or Board, shall make as many nominations for election to the Board as it shall, in its discretion, determine, but no fewer than the number of vacancies that are to be filled.

*3.5 Election.* Unless there are no more nominees than vacancies, election to the Board by the Members shall be by secret written ballot. At such elections, the Members or their proxies may cast, in respect to each vacancy, such number of votes as they are entitled to under the provisions of the Master Deed. The persons receiving the largest number of votes shall be elected, and, likewise, those receiving the largest number of votes shall be elected to the longest terms. In cases of ties, the winner shall be determined by lot. Cumulative voting is not permitted.

*3.6 Compensation.* Unless otherwise determined by the Members at a meeting duly called and noticed for such purpose, no Director shall receive compensation for any service rendered to the Association as a Director. However, any Director may be reimbursed for his or her actual expenses incurred in the performance of duties.

*3.7 Regular Meetings.* Regular meetings of the Board shall be held on such dates and at such places and times as may be fixed from time to time by resolution of the Board, but not less than quarterly.

*3.8 Special Meetings.* Special meetings of the Board shall be held when called by the president of the Board, or by a majority of the Directors, after not less than three days' notice to each Director.

*3.9 Quorum.* The presence at any duly called and noticed meeting of Directors entitled to cast a majority of the voting power of Directors, in

person and/or by participation by means of communications equipment if all persons participating can hear each other and participate, shall constitute a quorum for such meeting.

**OB B 8260 PG 08503.10 Voting Power.** Each Director shall be entitled to a single vote, and, except *as* otherwise provided in the Condominium Organizational Documents, or by law, vote of a majority of the Directors voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present, in person or by participation as provided in Section 3.9 above, shall be sufficient to determine that matter.

*3.11 Action in Writing Without Meeting.* Any action that could be taken by the Board at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of all of the Directors.

*3.12 Powers and Authority.* The Board shall exercise all powers and have all authority, under law, and under the provisions of the Condominium Organizational Documents, that are not specifically and exclusively reserved to the Members by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

(a) take all actions deemed necessary or desirable to comply with all requirements of law, and the Condominium Organizational Documents;

(h) obtain insurance coverage no less than that required pursuant to the Master Deed;

(a) enforce the covenants, conditions and restrictions set forth in the Master Deed;

(b) fulfill the repair and maintenance responsibilities of the Association set forth in the Master Deed;

(c) establish, enforce, levy and collect assessments, late fees, delinquent interest, and such other charges as are provided for in the Master Deed;

(d) adopt and publish rules and regulations governing the use of the Common Elements and the personal conduct of Members, occupants and their guests thereon, and establish and levy enforcement charges for the infraction thereof;

(e) suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any charge levied by the Association (such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Condominium Organizational Documents);

(f) declare the office of a member of the Board to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board;

(a) subject to such approvals, if any, as may be required

pursuant to the provisions of Condominium Organizational Documents,  
authorize the officers to enter into one or more

08nonoss agreements necessary or desirable to fulfill the purposes and objectives of the Association, including, without limitation, management agreements, purchase agreements and loan documents, all on such terms and conditions as the Board in its sole and absolute discretion may determine;

(6) cause funds of the Association to be invested in such reasonable investments *as* the Board may from time to time determine;

(k) borrow funds, as needed, and pledge such security and rights of the Association as might be necessary or desirable to obtain any such loan; and

(l) do all things and take all actions permitted to be taken by the Association by law, or the Condominium Organizational Documents not specifically reserved thereby to others.

**3.13 Duties.** It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at each annual meeting of Members, or at any special meeting when such statement is requested in writing by Members representing one-half (Y2) or more of the voting power of Members;

(b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(c) cause an annual budget to be prepared;

(d) as more fully provided in the Master Deed, to establish, levy, enforce and collect assessments;

(a) issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid;

(fi) procure and maintain insurance and bonds as provided in the Master Deed, and as the Board deems advisable, and monitor and enforce the maintenance of fire and extended coverage insurance on Units by Members;

(a) cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Master Deed;

(b) cause the restrictions created by the Master Deed to be enforced; and

(a) take all other actions required to comply with all requirements of law and the Condominium Organizational Documents.

**3.14 Delegation of Authority; Management; Contracts.** The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This



08260PC0852 delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense, provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days' written notice; shall be terminable by either party without cause and without penalty, on written notice of ninety (90) days or less; shall not exceed one year unless renewed by agreement of the parties for successive one-year periods; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing, provided that, in the case of any professional management contract entered into before control of the Association is vested in Members other than Declarant, the contract must give the Association the right to terminate it without cause and without penalty at any time after control of the Association has been transferred to or assumed by Members other than Declarant. Subject to the foregoing, nothing contained herein shall preclude Declarant, or any other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board, if there is no managing agent, shall have the authority to enter into contracts with Declarant or an affiliate of Declarant, as defined by an institutional first mortgagee or an agency or organization which purchases or insures first mortgages, for goods, services, or for any other thing, including, without limiting the generality of the foregoing, contracts for the providing of maintenance and repair services, provided the same are bona fide and commercially reasonable to the Members at the time entered into under the circumstances then prevailing.

#### 4. OFFICERS.

*4.1 Enumeration of Officers.* The officers of this Association shall be a president, a secretary, a treasurer and such other officers as the Board may from time to time determine. No officer other than the President need be a member of the Association, nor need any officer be a Director. The same person may hold more than one office.

*4.2 Selection and Term.* Except as otherwise specifically provided in the Master Deed or by law, the officers of the Association shall be selected by the Board, from time to time, to serve until the Board selects their successors.

*4.3 Special Appointments.* The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

*4.4 Resignation and Removal.* Any officer may be removed from

office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

*4.5 Duties.* The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

(a) 0s260PG085<sup>3</sup>President. The president shall preside at all meetings of the Board, shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Association.

(b) Secretary. The secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Members, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the names of Members of the Association together with their addresses, and shall act in the place and stead of the president in the event of the president's absence or refusal to act.

(e) Treasurer. The treasurer shall assume responsibility for the receipt and deposit in such bank accounts, and investment of funds in such vehicles, as the Board directs, the disbursement of such funds as directed by the Board, the keeping of proper books of account, the preparation of a proposed annual budget and a statement of income and expenditures to be presented to the Members at annual meetings, and the delivery or mailing of a copy of each to each of the Members.

1. COMMITTEES. The Board shall appoint a nominating committee and may appoint such other committees as it deems appropriate in carrying out its purposes.

2. BOOKS AND RECORDS. The books, records and financial statements of the Association, including annual audited financial statements when such are prepared, shall be available during normal business hours or under other reasonable circumstances, upon request to the Association, for inspection by Members, lenders, and the holders, insurers *and* guarantors of *first* mortgages on Units. Likewise, during normal business hours or under other reasonable circumstances, the Association shall have available for inspection by Members, holders, insurers and gunrantors of first mortgages on Units, and prospective purchasers, current copies of the Condominium Organizational Documents and the rules and regulations governing operation of the Condominium.

3. AUDITS. The Association (through its Board) shall cause the preparation and furnishing of an audited financial statement for the immediately preceding fiscal year when deemed desirable by the Board, and, in any event, within a reasonable time (no later than 120 days of the Association's fiscal year-end) following a written request (1) from any institutional first mortgage lender, insurer, or guarantor, or appropriate government agency which has an interest or prospective interest in the Condominium, or (2) upon the affirmative vote of Members exercising a majority of the voting power of Members.

1. FISCAL YEAR. Unless otherwise changed by the Board, the fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year

shall begin on the date of incorporation of this Association.

4. AMENDMENTS. Any modification or amendment of these Bylaws shall be made only by means of an amendment to the Master Deed, in the manner and subject to the approvals, terms and conditions set forth therein, and shall be effective from the time a certificate setting forth such modification or amendment is delivered for recording to the Jefferson County Clerk's office.

n 08260PG085<sup>4</sup>IN TESTIMONY WHEREOF, the undersigned, the sole member of the Association, has caused these Bylaws to be duly adopted on or as of the day of August, 2003.

DOMINION HOMES OF  
KENTUCKY, LTD.

By: Dominion Homes of Kentucky GP, LLC

By:

Stephan M. George,  
President

("Declarant")

**Jil,8 260FGOB55Exhibit C**  
**Legal Description of Condominium Property**

The land referred to in this Commitment is situated in the County of Jefferson, State of Kentucky, and is more particularly described as follows:

BEING Revised Tract I as shown on Minor Subdivision Plat approved by the Louisville and Jefferson County Planning Commission on February 13, 2002, under Docket #033-01, of record in Plat Book 47, Page 29, in the Office of the Clerk of Jefferson County, Kentucky.

BEING the same property acquired by Dominion Homes of Kentucky, Ltd., by Deed dated January 9, 2003, of record in Deed Book 8044, Page 251, in the Office of the Clerk of Jefferson County, Kentucky.



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LAYOUT PLAN  
THE 'VILLAGE AT  
INMAN FALLS  
CONSTRUCTION PLAN  
OWNER/DEVELOPER  
DOMINION HOMES OF KENTUCKY, LTD.  
10035 FOREST GREEN BOULEVARD  
LOUISVILLE, KY. 40223  
(502) 426-4683

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**EXHIBIT**

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**0826013C0857-Exhibit E**

**AMENDMENT TO MASTER DEED AND DECLARATION  
FOR  
THE VILLAGE AT INDIAN FALLS  
SINGLE-FAMILY HOMES IN A CONDOMINIUM COMMUNITY •**

**THIS AMENDMENT TO MASTER DEED AND DECLARATION FOR  
THE VILLAGE  
AT INDIAN FALLS, SINGLE-FAMILY HOMES IN A CONDOMINIUM  
COMMUNITY** is made, entered into and effective as of \_ 200 by  
**DOMINION HOMES OF KENTUCKY, LTD.**, a Kentucky limited  
partnership, having an address at 10035 Forest Green Boulevard,  
Louisville, Jefferson County, Kentucky 40223 ("Declarant").

**RECITALS:**

A. Declarant has previously entered into that certain  
Master Deed and Declaration  
Creating and Establishing a Plan for Condominium Ownership under  
the Horizontal Property Law of Kentucky, KRS 381.805-381.910 for  
*The Village at Indian Falls*, Single-Family Homes in A Condominium  
Community, dated as of September 2003, of record  
in Deed Book \_\_\_\_\_  
Page in the Jefferson County Clerk's office, as amended by [describe  
prior amendments here, by date, deed book and page and by clerk's file number  
and apartment or ownership book numbers) (said Master Deed, as so

amended, being hereinafter referred to as the "Master Deed").

A. Section 6.2 of the Master Deed provides that following the completion of construction of various Units, Declarant will record various amendments to the Master Deed for the purpose of placing of record a set of floor plans for each Unit and a verified statement of a registered architect or professional engineer regarding each Unit, the authority to so amend being conferred upon Declarant by the provisions of Section 19.1 of the Master Deed.

B. Declarant now desires to [further] amend the Master Deed to annex floor plans and verified statements with respect to certain Units.

**NOW, THEREFORE**, for and in consideration of the above recitals, Declarant hereby declares as follows:

**I. ADDITIONAL PHASE.** From and after the date of this Amendment, the term "Units" as defined in the Master Deed, shall include Units as more fully delineated on the plans of record in Condominium and Apartment Ownership Book Page in the aforesaid Clerk's office.

**2. RATIFICATION.** Except as modified by this Amendment, the Master Deed shall remain in full force and effect.

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OB Li 8260 PG 0858IN WITNESS WHEREOF, Declarant has executed  
this Amendment as of the date first  
written above.

**DOMINION HOMES OF KENTUCKY,  
LTD.**

By: Dominion Homes of  
Kentucky GP, LLC,  
General Partner

By:  
Stephan M. George,  
President

("Declarant")

COMMONWEALTH OF KENTUCKY

)SS:

COUNTY OF JEFFERSON

The foregoing instalment was acknowledged before me this

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y of  
200 by Stephan M. George, as President of Dominion Homes of Kentucky  
GP, LLC, a Kentucky limited liability company, the General Partner of  
Dominion Homes of Kentucky, Ltd., a Kentucky limited partnership, on  
behalf of the partnership.

My commission expires:

---

NOTARY PUBLIC

This instrument was prepared by:

Tandy C. Patrick, Esq.  
GREENEBALTM DOLL & MCDONALD PLLC  
3500 National City Tower  
101 South Fifth Street  
Louisville,  
Kentucky  
40202-3197  
(502) 589-4200

**Exhibit F**  
**Condominium Unit Types**

<b>Tim</b>	<b><u>Description</u></b>
Adams	One-story ranch-style home consisting of two bedrooms, one full bathroom, a living room, a kitchen, a storage closet, and laundry closet, all at street level, a total of five rooms, <sup>(1)</sup> and containing approximately 975 square feet. <sup>(2)</sup>
Hancock	Two-story home consisting of a living room, dining area, kitchen, and a half-bath at street level, three bedrooms, one full bathroom, and a laundry closet on the second floor, a total of eight rooms, and containing approximately 1,355 square feet.m
Madison	One-story ranch-style home consisting of three bedrooms, one full bathroom, a storage room/second bathroom, kitchen, great room with dining area, and a laundry closet, a total of seven rooms, <sup>(1)</sup> and containing approximately 1,175 square feet.P <sup>3)</sup>
Monroe	Two-story home consisting of a living room, dining room, kitchen, half-bath, and laundry closet at street level, three bedrooms, and either one or two full bathrooms on the second floor, a total of either eight or nine rooms, <sup>4)</sup> and containing approximately 1,200 square feet. <sup>(2)</sup>
Revere	Two-story home consisting of one bedroom, one and one-half bathrooms, living room, kitchen, and laundry room at street level, one bedroom, a loft area, and one bathroom on the partial second floor, a total of nine rooms, <sup>(4)</sup> and containing approximately 1,330 square feet. <sup>(2)</sup>
Hamilton	One-story ranch style home consisting of three bedrooms, two full bathrooms, a living room, a dining room, a kitchen, and a laundry room, all at street level, a total of seven rooms, <sup>(1)</sup> and containing approximately 1,850 square feet. <sup>(2)</sup>
Quincy	One and one-half story home consisting of a living room, dining room, kitchen, laundry room, master bedroom, and one full bathroom at street level, two bedrooms and one full bathroom on the second level, a total of nine rooms, <sup>(1)</sup> and containing approximately 1,700 square feet. <sup>(2)</sup>
Jefferson	Two-story home consisting of a living room, dining room, kitchen, laundry room and one

half bathroom at street level, three bedrooms and one full bathroom on the second level, a total of nine rooms,') and containing approximately 1,585 square feet.<sup>(24)</sup>

*(\*Total number of rooms includes each bedroom, bathroom, half bathroom, loft area, living room, laundry room, kitchen, and dining room.*

*e' In addition, each Unit will have a two car attached garage which will contain an additional approximately 400 square feet.*

## **END OF DOCUMENT**

Document No., - M2003E68°11 ,

GD&M 761649.4 September 3, 2003

Lodged **By:** EREENBAUNRecorder.d

On 09/30/2003016-47.6

Total Fees: - **. agoo**

Transfer Tax: .00

County Clerk: BOBBIE HOLSCLOW -JEFF CO KY Deputy Clerk:

EVENAY